

TILBURG UNIVERSITY
TILBURG LAW SCHOOL

NATURALIZATION OF STATELESS PERSONS:
SOLUTION OF STATELESSNESS?

Master thesis

LLM INTERNATIONAL AND EUROPEAN PUBLIC LAW: HUMAN RIGHTS TRACK

Department of European and International Public Law

Supervisor: Dr Laura van Waas

Mgr. Eva Mrekajova

Tilburg 2012

Abstract

Naturalization of stateless persons falls under the broader problem of statelessness which is recently drawing more and more attention. However, the issue of facilitated naturalization of stateless persons, proposed as one of the measures to reduce statelessness, stays grossly overlooked. This thesis tries to identify international obligations of states relating to attribution of nationality via naturalization and to formulate international and European standards for facilitated access to citizenship for stateless persons. In light of these standards, national regimes of three states – Estonia, Hungary and Slovakia – are assessed and compared to each other. The comparative study focuses in particular on assessment of material requirements (residence, language and other integration requirements, good character, economic resources requirements, loyalty to the State and security) and procedural aspects of naturalization (application, proceedings), as well as other areas of concern arising when it comes to facilitated access to citizenship. Based on the comparative study general recommendations are drafted. Finally, the potential of facilitated naturalization, to be an effective measure reducing statelessness, is assessed and the main obstacles of its practical application and enforcement are identified.

Key words: *reduction of statelessness, access to citizenship, facilitated naturalization, residence, language tests, integration, good character, economic resources requirements, loyalty, security, application for naturalization, naturalization proceedings.*

Table of content

INTRODUCTION	5
METHODOLOGY	6
I. SCOPE OF THE RESEARCH	6
II. CONSULTATIONS WITH EXPERTS	6
III. RESEARCH METHODOLOGY	7
IV. ASSESSMENT BASED ON ADJUSTED MIPEX 2010 INDICATORS.....	7
PART 1 THEORETICAL FRAMEWORK.....	9
1 <i>WHAT IS STATELESSNESS?</i>	9
2 <i>WHO DECIDES ON NATIONALITY?</i>	10
3 <i>OVERVIEW OF INTERNATIONAL OBLIGATIONS</i>	11
3.1 <i>INTERNATIONAL HUMAN RIGHTS LAW AND THE RIGHT TO NATIONALITY</i>	11
3.2 <i>BINDING INSTRUMENTS RELATING TO STATELESSNESS</i>	12
3.3 <i>EUROPEAN HUMAN RIGHTS REGIME</i>	13
3.4 <i>ADDITIONAL LIMITS IMPOSED BY INTERNATIONAL LAW</i>	15
3.4.1 <i>Principle of non-discrimination</i>	15
3.4.2 <i>Rule of law</i>	17
4 <i>WHICH NATIONALITY?</i>	18
5. <i>FACILITATED NATURALIZATION</i>	19
PART 2 COMPARATIVE STUDY.....	22
6 <i>PROFILES OF CHOSEN STATES</i>	22
6.1. <i>ESTONIA</i>	22
6.2 <i>HUNGARY</i>	23
6.3 <i>SLOVAKIA</i>	23
7 <i>MATERIAL REQUIREMENTS</i>	24
7.1 <i>RESIDENCE</i>	24
7.1.1 <i>Estonia</i>	25
7.1.2 <i>Hungary</i>	27
7.1.3 <i>Slovakia</i>	28
7.1.4 <i>Comparative analysis</i>	29
7.2 <i>LANGUAGE OR OTHER INTEGRATION REQUIREMENTS</i>	29
7.2.1 <i>Estonia</i>	31
7.2.2 <i>Hungary</i>	33
7.2.3 <i>Slovakia</i>	34
7.2.4 <i>Comparative analysis</i>	35
7.3 <i>GOOD CHARACTER</i>	35
7.3.1 <i>Estonia</i>	36
7.3.2 <i>Hungary</i>	37
7.3.3 <i>Slovakia</i>	37
7.3.4 <i>Comparative analysis</i>	38
7.4 <i>ECONOMIC RESOURCES REQUIREMENTS</i>	38
7.4.1 <i>Estonia</i>	39
7.4.2 <i>Hungary</i>	39
7.4.3 <i>Slovakia</i>	40
7.4.4 <i>Comparative analysis</i>	40
7.5 <i>LOYALTY TO THE STATE AND SECURITY</i>	40

7.5.1 Estonia	41
7.5.2 Hungary	43
7.5.3 Slovakia.....	43
7.5.4 Comparative analysis.....	43
7.6 FINDINGS.....	44
8 PROCEDURAL ASPECTS	44
8.1 APPLICATION FOR NATURALIZATION	45
8.1.1 Estonia	45
8.1.2 Hungary	46
8.1.3 Slovakia.....	46
8.1.4 Comparative Analysis	47
8.2 NATURALIZATION PROCEEDINGS	47
8.2.1 Estonia	48
8.2.2 Hungary	48
8.2.3 Slovakia.....	49
8.2.4 Comparative analysis.....	50
8.3 FINDINGS.....	51
9 OTHERS AREAS OF CONCERN	51
9.1 STATELESSNESS DETERMINATION PROCEDURE.....	52
9.2 ASSISTANCE PROVIDED TO STATELESS PERSONS	52
9.3 SECURITY OF STATUS	53
9.4 FINDINGS.....	54
10 SOLUTION OF STATELESSNESS?	55
10.1 OVERALL ASSESSMENT	55
10.2 PRACTICAL ASPECTS OF FACILITATED NATURALIZATION OF STATELESS PERSONS.....	55
10.2.1 Main obstacles: Perspective of a state.....	56
10.2.2 Main obstacles: Perspective of an individual.....	57
10.2.3 Incentives for implementation of facilitated citizenship.....	57
10.3 SOLUTION YES, BUT NOT ALWAYS THE BEST.....	58
CONCLUSION.....	61
BIBLIOGRAPHY	62
APPENDIX 1	67
APPENDIX 2	68
APPENDIX 3	70
I. ESTONIA	76
II. HUNGARY	83
III. SLOVAKIA.....	88

INTRODUCTION

“Nationality is not merely a matter of law, it is not a matter of technicality, it is a matter of the heart.”

(Mr. Wu, Chinese Delegate, Hague Conference 1930)

Most of us are used to take their nationality for granted, it is something what we have always had and we have never experienced how problematic some things could be without any document declaring us to be a member of some state's family. A person who is not considered as a national by any state is stateless. Statelessness is a massive problem that affects an estimated 12 million people worldwide. It carries very often terrible consequences for individuals who are thus barred full participation in society or full access to some human rights.

International community generally accepts that statelessness should be avoided or reduced where it already occurred. One of the measures which were proposed as a durable solution of statelessness is facilitated access to citizenship via naturalization. But even though international law recognizes the right to nationality, states have still a sovereign right to determine how their citizenship may be acquired. This basically means that even though international law provides for facilitated access to citizenship for stateless persons it is still the State who dictates its requirements. In this light, requirements such as fixed duration of residence, administrative fees, knowledge of particular language etc. may considerably impede stateless person's access to citizenship. This is reinforced by the fact that there are no clear guidelines explaining what actually amounts to facilitated naturalization.

In the light of foregoing, I have chosen facilitated naturalization of stateless persons as a topic of my thesis. I of course realize that this obligation, even though declared under some international documents is very soft, and it neither requires the states to grant their citizenship, nor stateless persons to accept any such offer. The duty of facilitated naturalization therefore has to be understood as an effort to encourage states *“to dispense with as many formalities in their naturalization process as possible so that [stateless persons] are positioned to acquire citizenship with the absolute minimum of difficulty.”*¹ This only adds one more reason why states should be informed about possible difficulties which stateless persons may face. This is the goal of my research.

My thesis is divided into two main parts. First part, theoretical framework, briefly outlines international obligations of states relating to attribution of nationality via naturalization, based on which I tried to formulate international and European standards for facilitated access to citizenship for stateless persons. Second part comprises comparative study of naturalization regimes as implemented in Estonia, Hungary and Slovakia with special focus on naturalization of stateless persons, concluded by a brief assessment of the potential of facilitated naturalization to be an effective measure reducing statelessness.

In addition, comparative study itself is divided into five parts. First part shortly outlines the profiles of chosen states and explains why these states have been chosen for purposes of my research. The second and third parts address in more details material (residence, language and

¹*per analogiam* Hathaway, J.C. *The rights of refugees under International law*. p. 985-986

other integration requirements, good character, economic resources requirements, loyalty to the State and security) and procedural aspects (application, proceedings) of naturalization concluded by final assessment. Finally, fourth part considers what other aspects may facilitate or, the contrary; hinder the naturalization of stateless persons. The whole comparative study is terminated by set of recommendations and final reflections with regard to topic in focus.

In conclusion, I hope that my work will fill the current research gap which exists in this field and contribute to further development of the area concerned.

METHODOLOGY

I. Scope of the Research

The objective of the present research is to evaluate the naturalization of stateless persons, as implemented under chosen national regimes of Estonia, Hungary and Slovakia, in light of international and European standards promoting facilitated access to citizenship for stateless persons. Finally, I will assess its potential to be an effective measure reducing statelessness.

Main areas of my research are:

- *What are the international and European standards for facilitated naturalization for stateless persons?*
- *How do chosen States deal with the naturalization of stateless persons?*
- *To what extent are national regimes complying with international and European standards for facilitated naturalization for stateless persons?*
- *What are the main obstacles of facilitated naturalization for stateless persons?*
- *To what extent is naturalization of stateless persons an effective measure reducing statelessness?*

Please note, that my research do not deal with statelessness in general and I further focus only on *facilitated naturalization of stateless persons* in its strict sense of grant of nationality upon application later in life. Other preferential regimes based on other circumstances (e.g. marriage, age, minor child etc.) will not be discussed, even though it is not excluded that states may and often provides further preferences to stateless persons if such circumstances occur. Moreover, I further narrowed down my research to *de jure* stateless persons not qualifying for refugee protection. Finally, both viewpoints of forced migration, concentrating on stateless persons arriving in the selected countries in need of protection, as well as *in situ* statelessness will be considered.

II. Consultations with experts

Comparative study of the national regimes was conducted in cooperation with following national experts in a form as indicated:

Vadim Poleshchuk legal adviser - analyst, Legal Information Centre for Human Rights (LICHR), Tallinn (interview, feedback on my questions, control of filled in chart on Estonia as attached in Appendix 3)

Gabor Gyulai, Refugee program coordinator, Hungarian Helsinki committee, Budapest (interview)

Judit Tóth, Associate Professor of Law and Constitutional Law at the University of Szeged (feedback on my questions, control of filled in chart on Hungary as attached in Appendix 3)

Barbora Messova, Assistant Protection Officer, Office of UNHCR in the Slovak republic, Bratislava (consultation)

Katarina Hudecova, Consultant for Legal and Social Counseling, Migration information centre, Bratislava (feedback on my questions)

General aspects of my topic were further consulted with:

Sebastian Kohn, program officer for equality and citizenship at the Open Society Justice Initiative, New York (feedback on my questions)

III. Research Methodology

My main tasks were:

- to introduce the topic in context of statelessness
- to identify international obligations of states relating to attribution of nationality via naturalization
- to identify international and European standards for facilitated access to citizenship
- to investigate the domestic legal background of statelessness in each country
- to describe material and procedural aspect of naturalization in each country focusing on regime for stateless persons
- to identify further areas of concern when it come to facilitated access to citizenship
- to compare three national regimes and identify their strengths and weaknesses
- to assess particular national regimes according to adjusted MIPEX 2010 Indicators and to draft corresponding radar charts (see below)
- to formulate recommendations based on the comparative study
- to assess the potential of facilitated naturalization of stateless persons to become an effective measure against statelessness and to identify the major obstacles of its implementation

IV. Assessment based on adjusted MIPEX 2010 Indicators

MIPEX 2010 Indicators are policy indicators on migrant integration designed to “*benchmark current laws and policies against the highest standards through consultations with top scholars and institutions using and conducting comparative research in their area of expertise.*”² The indicators cover 7 policy areas including *access to citizenship*.

For the purposes of this study I adjusted indicators related to *access to citizenship* for the context of naturalization of stateless persons according to analysis provided under Part 2 (for adjusted indicators please see Appendix 3 - *amendments are in bold cursive*). Here, each aspect of assessment is recorded under separate number with three different standards

² See <http://www.mipex.eu/methodology>

indicating quality of facilitated access to citizenship, the highest standard will be during the assessment graded with a grade 1, middle standard with a grade 2 and the lowest with a grade 3. In this light, each country will be assessed as follows:

Within each identified aspect of naturalization the indicators' scores are averaged together to give information on how facilitated these aspects are, firstly, separately. Only exception is *naturalization proceedings*, where even separate indicators such as length of procedure, costs, naturalization decisions and general guarantees of the proceedings are compared separately. However, in this case this method has been chosen due to small number of aspects compared under *procedural aspect of naturalization*. I could not record my findings into radar chart with only two figures (application, naturalization proceedings) for each national regime.

As a next step, all these scores are averaged again to give one of 3 dimension's score (material requirements, procedural aspects and other areas of concern), which, averaged together one more time, lead to the overall scores for each country. In order to make rankings and comparisons, the initial 1, 2, 3 scale is converted into 100, 50, 0 scale, where 100 is the top score indicating the ideal regime.³ My findings are recorded into radar charts included under Part 2 of this thesis.

(Please bear in mind that radar charts only summarize indicators as marked in Appendix 3, but these are not able to reflect accurately all issues as analyzed under Part 2 of this thesis.)

³ Compare with methodology available at <http://www.mipex.eu/methodology>

Part 1 Theoretical framework

1 What is statelessness?

As expressed in article 1 of the *1954 Convention relating to the Status of Stateless Persons*, according to international law the term “stateless person” means „a person who is not considered a national by any state under the operation of its law.“⁴ The person who qualifies under this definition is referred to as *de jure* stateless. The assessment is dependent purely on a point of law or in other words „on the existence (or absence) of a formal bond of nationality, without pausing to consider the quality or effectiveness of citizenship.“⁵ The later refers to the situation when an individual is lacking the protection of their country even if the formal bond of nationality keeps to be retained *de jure*. This person is *de facto* stateless. But even though they often face the same problems as *de jure* stateless, they are not covered by the definition concerned. The protection of *de facto* statelessness is a subject of ongoing debate and only future development will show how this gap will be filled. In the present study, we will focus solely on *de jure* stateless persons, who, in addition, do not qualify for refugee protection.

Statelessness occurs for a variety of reasons including discrimination against minority groups or gender discrimination in nationality legislation, failure to reconcile citizenship of all residents after state succession or conflicts of laws between states.⁶ Persons who end up stateless then often find themselves in a vulnerable position and although human rights are generally to be enjoyed by everyone, possession of nationality still appears to be crucial for full participation in society and uninterrupted enjoyment of full range of human rights. But even though the right not to be stateless, or the *right to a nationality* are widely recognized as fundamental human rights under international law,⁷ there are still over 12 million people who remains stateless and prevented to live decent life.

Statelessness remained for a long time a minor interest within international community and it took a long time until influential international NGOs and monitoring bodies actively campaigned to raise the profile of stateless populations and supported the expansion of UNHCR’s efforts in this area. To this end, they have been supported by UN Committees, including the Committee on the Elimination of Racial Discrimination and other UN agencies, including the Office of the High Commissioner for Human Rights (OHCHR).⁸ It became apparent that statelessness is an undesirable phenomenon which deserves an adequate attention.

There are four basic steps how the statelessness is approached: firstly, it is necessary to identify stateless population and to understand how a person may become stateless; secondly, to address effective means of its prevention, thirdly, in cases where it has already occurred, to analyze possible solutions of its reduction and finally, to set out a framework for the

⁴ See also Article 1 (c) of the Council of Europe 2006 *Convention on the avoidance of statelessness in relation to State succession* and the *Explanatory report to the 1997 European Convention on Nationality*, para 33.

⁵ Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 20

⁶ *Stateless people. Searching for citizenship*. available at <http://www.unhcr.org/pages/49c3646c155.html>

⁷ Provisions intended to prevent or reduce statelessness are embedded in several international human rights treaties, including *1948 Universal Declaration of Human Rights*, *1966 International Covenant on Civil and Political Rights*, *1989 Convention on the Rights of the Child*, *1979 Convention on the Elimination of All Forms of Discrimination against Women*, *1957 Convention on the Nationality of Married Women*, *1961 Convention on the Reduction of Statelessness*, and *1954 Convention Relating to the Status of Stateless Persons*, see also *3 Overview of international obligations*

⁸ Blitz, B. K., Lynch, M.: *Statelessness and citizenship: A comparative study on the benefits of nationality*. p 5

protection of stateless persons.⁹ My study will further focus primarily on third aspect, reduction of statelessness and even more specifically, on one of the measures proposed to reduce statelessness – *facilitated naturalization of stateless persons*.

Regarding the fact that international law recognizes the right to nationality, naturalization of stateless persons by states in which they are permanently living or want to settle, appears to be an obvious solution of statelessness, however, its practical application and enforcement discloses several problems. To better comprehend the concept, it is necessary to outline first, within whose competence falls the nationality and secondly, what is the international and European legal framework with respect to the issue in focus.

2 Who decides on nationality?

It is generally accepted that the questions of nationality fall within the domestic jurisdiction of each state. But the powers of states are not absolutely omnipotent and in practice they remain limited by similar actions of other states and by international law.¹⁰

The Permanent Court of International Justice addressed the issue of exclusive jurisdiction of state over nationality matters in its *Advisory Opinion on the Tunis and Morocco Nationality Decrees* of 1923, stating that: “*The question whether a certain matter is or is not solely within the domestic jurisdiction of a State is an essentially relative question; it depends on the development of international relations.*”

This approach was later reiterated in the *1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws*, which under Article 1 explicitly states that: „*It is for each State to determine under its own law who are its nationals. This law shall be recognized by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognized with regard to nationality.*”

However, the provisions of the *1930 Hague Convention* were not rigorous enough to seriously impact on the existence of statelessness, neither managed to attract many states parties,¹¹ but from the perspective of nationality law they still played an important role and „*gradually developed to favor human rights over claims of State sovereignty.*”¹²

Nowadays, there are various international legal instruments, with either binding or non-binding effect, providing for protection of the right to nationality or stateless persons in particular. Next we will look at those international obligations relevant from the perspective of *acquisition of nationality*.¹³

⁹ UN High Commissioner for Refugees, *Statelessness: Prevention and Reduction of Statelessness and Protection of Stateless Persons*.

¹⁰ UN High Commissioner for Refugees, *Nationality and Statelessness: A Handbook for Parliamentarians*. p. 8

¹¹ The number of state parties now stands at 20.

¹² UN High Commissioner for Refugees, *Nationality and Statelessness: A Handbook for Parliamentarians*. p. 8

¹³ Please note that the terms *nationality* and *citizenship* (as well as *national* and *citizen*) will be used interchangeably throughout this work to denote the legal bond between an individual and a state.

3 Overview of international obligations

3.1 International human rights law and the right to nationality

One of the main arguments substantiating the claim of stateless persons to gain citizenship on preferential terms is the fact that the opposite is in direct contradiction with the *right to nationality*. In this light, the obligation to facilitate naturalization of stateless persons can be indirectly derived from states' obligation to respect the right to nationality.

Right to nationality, as proclaimed under Article 15 of the *1948 Universal Declaration of Human Rights*, has been endorsed by many legally binding international instruments. For the purposes of my study is important to mention the following:

a) *1965 Convention on the Elimination of All Forms of Racial Discrimination (CERD)*, under which Article 5 (d) (iii) reads: „*In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: ... (d) ... (iii) The right to nationality*“

b) *1966 International Covenant on Civil and Political Rights (ICCPR)*, endorsing the right of every child to acquire nationality. (Article 24 (3))

c) *1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, obliging states to „*grant women equal rights with men to acquire, change or retain their nationality.*“ (Article 9)

d) *1989 Convention on the Rights of the Child (CRC)*, where Article 7 reads: „*The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents...*“

All countries covered by this study have ratified the above-mentioned documents. In addition, Hungary and Slovakia also ratified *2006 Convention on the Rights of Persons with Disabilities*, which asks the State parties, *inter alia*, to „*recognize the rights of persons with disabilities to ... freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities ... have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability...*“ (Article 18) Both States ratified also *1957 Convention on the Nationality of Married Women*, providing for protection of women's right to retain or renounce their citizenship upon marriage. Estonia only signed the former.

Finally, it is important to note, that it is not only *right to citizenship* which supports facilitated access to citizenship for stateless persons. The same may be said about democratic rights of political participation which may also act as constraints on state discretion to deny nationality.¹⁴ By the same token, it may be observed that because “*democratic values are deeply offended by the exclusion from citizenship of persons long resident in a political community ... international law has moved in the direction of establishing a presumptive right*

¹⁴ Goldston, J. A.: *Holes in the Rights Framework: Racial Discrimination, Citizenship, and the Rights of Noncitizens*. p. 340

to citizenship in the state of habitual residence.”¹⁵ The human rights law as such therefore limits states powers to legislate on nationality.

3.2 Binding instruments relating to statelessness

The obligation of states to facilitate naturalization of stateless persons may be further derived from specific legal instruments related to statelessness. Two main universal conventions focused on protection of stateless persons are *1954 Convention relating to the Status of Stateless Persons* and *1961 Convention on the Reduction of Statelessness*. Both of them were ratified only by Hungary and Slovakia.

The 1954 Convention primary aims to regulate and improve the status of stateless persons and to ensure the protection of their fundamental rights and freedoms without discrimination. For our purposes Article 32 of the Convention is the most relevant; it reads „*the Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings*“. The provision is formulated very broadly without any further guidelines. On one hand it means that stateless persons with all kind of connections to the State (e.g. *lawful* and habitual residence, connection with the State through birth or marriage or simple *de facto* habitual residence) can benefit from it.¹⁶ On the other hand, the provision actually does not guarantee the right to be naturalized, only an opportunity of facilitated naturalization, which is left within the discretion of the State. The same conclusion was presented by Executive Committee of the UNHCR which “[*encouraged*] States to actively disseminate information regarding access to citizenship, including naturalization procedures,” implying that such procedures should be available to stateless persons but they are not suggesting that stateless persons enjoy a *right* to access nationality.¹⁷ Nevertheless, the article is definitely of some value at least in extreme cases where stateless persons are effectively barred from naturalization without any sound reasons.¹⁸

Another problem of this very broad wording of the provision in question is that it „*does not offer any suggestion as to which pre-conditions for eligibility for naturalization are considered legitimate and which may not justifiably be required of the stateless.*“¹⁹ Neither the *1961 Convention on the Reduction of Statelessness* does provide more guidelines in this respect. It governs mainly acquisition of citizenship when a person was born in the territory of the State concerned and would otherwise be stateless (Article 1) or has some other link with the State e.g. at least one of his/her parents was national of the State concerned at the time of the person’s birth (Article 4). However, the Convention at least clearly indicates the obligation to avoid statelessness, which is relevant also for our purposes because it limits to

¹⁵ Orentlicher, D.F.: *Citizenship and National Identity*. As cited by Goldston, J. A.: *Holes in the Right Framework: Racial Discrimination, Citizenship, and the Rights of Noncitizens*. p. 340

¹⁶ Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 370

¹⁷ *Conclusion No. 106: Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons*. As cited by Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 365

¹⁸ Hathaway, J.: *The Rights of Refugees under International Law*. page 989. As cited by Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 365

¹⁹ Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 366

certain extant powers of States to decide under what conditions the nationality will be conferred.

Finally, it is important to mention *1951 Refugee Convention*, whose structure and content are very similar to the *1954 Convention*. Besides, stateless persons qualifying under refugee definition may be protected also under *1951 Convention* „by making use of refugee status determination procedures, already in place in European and other states.“²⁰ But even though I concentrate in my research only on non-refugee stateless persons, some standards established for facilitated naturalization of refugees pursuant to Article 34 of the *1951 Convention* may be *per analogiam* used also for the purposes of the present study.

3.3 European human rights regime

The presence of large numbers of stateless persons in a region can often produce regional instability; therefore, it should be at the best interest of each region or regional organization to reduce statelessness.²¹ Moreover, such regional pressure may be very effective and eventually even “impel an otherwise reluctant state government to naturalize stateless citizens ...”²² European human rights regime therefore also introduced a number of conventions and related instruments, which specifically deals with the right to nationality and avoidance of statelessness.

Particularly important instrument in this context, ratified by Hungary and Slovakia, is *1997 European Convention on Nationality* adopted by the Council of Europe. It provides for a set of key principles and obligations with respect to the right to nationality with special reference to stateless persons. According to the Convention the rules on nationality of each State shall be based on the principle *to avoid statelessness*, alongside *the right to nationality* and *prohibition of arbitrary deprivation of citizenship*.²³ All these principles are closely related. The right to nationality may be seen as a positive formulation of the duty to avoid statelessness,²⁴ and the notion “*deprivation of nationality*” in its broadest sense „*may impact not only on states’ powers of denationalization but also on their decisions relating to the conferral of nationality at birth and ... naturalization.*“²⁵ Moreover, the Convention also explicitly asks the States to „*facilitate in its internal law the acquisition of its nationality for the ... stateless persons and recognized refugees lawfully and habitually resident on its territory...*“²⁶ Obviously, the obligation to facilitate naturalization for stateless persons is relevant first and foremost for states which ratified the Convention, but we may argue that at least general principles relating to nationality, referring to „*the new ideas which have emerged*

²⁰ Hungarian Helsinki Committee: *Forgotten Without Reason: Protection of Non-Refugee Stateless Persons in Central Europe*. p. 10

²¹ UN High Commissioner for Refugees: *What would life be like if you had no nationality*. As cited by Weissbrodt, David S., Collins, C.: *The Human Rights of Stateless Persons*. p. 275

²² Weissbrodt, David S., Collins, C.: *The Human Rights of Stateless Persons*. p. 275

²³ Article 4 Council of Europe: *1997 European Convention on Nationality*.

²⁴ Council of Europe: *Explanatory report to 1997 European Convention on Nationality*. para 32

²⁵ Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 94

The same was confirmed by the Inter-American Court on Human Rights in its case of *Yean and Bosico v. Dominican Republic*, where it found that the failure to grant nationality to the children constituted an arbitrary deprivation of their nationality. See Inter-American Court on Human Rights, *Case of Yean and Bosico v. Dominican Republic*. para. 174.

²⁶ Article 6 (4) (g) Council of Europe: *1997 European Convention on Nationality*.

as a result of developments in internal law and in international law, “²⁷ may be relevant also for other states, e.g. Estonia, as a part of international customary law.

The Council of Europe in 2006 adopted also *Convention on the Avoidance of Statelessness in relation to State Succession*. „While matters of succession will not be directly relevant to all states in the drafting of a nationality law, general principles are, including those of family unity, of non-discrimination, and the responsibility of the state to ensure that its nationality is available to an individual who would otherwise be stateless and who has an appropriate link with the state.“²⁸ The Convention is therefore important even though it explicitly does not deal with the facilitated naturalization of stateless persons, but it expresses the general policy encouraging avoidance of statelessness recognizing that „the avoidance of statelessness is one of the main concerns of the international community in the field of nationality.“²⁹ From our three states only Hungary ratified the 2006 Convention.

On the other hand, the 1950 *European Convention on Human Rights and its protocols*, crucial document of the Council of Europe, does not explicitly provide for the right to nationality, but even though we cannot conclude that it is absolutely irrelevant for our purposes. By now, several provisions have been interpreted as constraining state’s actions to deny or deprive eligible individuals of the right to citizenship. This includes Protocol 12 and Article 8 which concerns the right to private life.³⁰ Moreover, the European Court of Human Rights has recently delivered its judgment in the case of *Andrejeva v. Latvia* ruling that Latvia was discriminating against a permanent non-citizen on the basis of Ms *Andrejeva* citizenship status.³¹ In this light, we cannot conclude that the issue of facilitated naturalization for stateless persons is totally excluded from the agenda of the Court.

Finally, it is important to note that even the European Union plays some role in the promotion of facilitated naturalization of stateless persons. This was demonstrated for example during the accession of Estonia to the European Union, which to some extent influenced also treatment of stateless persons.³² Unfortunately, the admission to the European Union has been seen as “the ultimate international approval of its nationality policies”³³ and the systematic international pressure to resolve the problem of statelessness stopped. Since then, this debate has been shaped mainly by internal incentives.

Even though we can conclude that there is a general international consensus that statelessness should be eliminated. Estonia, Hungary and Slovakia are therefore equally committed to respect the right to nationality. Far more contentious issue is to what extent international law may dictate states to open their naturalization procedures for stateless persons. Relevant principles will be addressed in next part.

²⁷ Council of Europe: *Explanatory report to 1997 European Convention on Nationality*. para 11

²⁸ Batchelor, C.: *Transforming international legal principles into national law: The right to nationality and the avoidance of statelessness*. p. 12

²⁹ Council of Europe: *2006 Convention on the Avoidance of Statelessness in relation to State Succession*, preamble

³⁰ Refugee Studies Centre: *Statelessness, protection and equality*. p. 23

³¹ See *Andrejeva v. Latvia* Application no. 55707/00, European Court of Human Rights

³² Weissbrodt, David S., Collins, C.: *The Human Rights of Stateless Persons*. p. 275 - 276

³³ Jarve, P.: *Estonian citizenship: Between ethnic preferences and democratic obligations*. p. 55

3.4 Additional limits imposed by international law

When it comes to limits imposed by international law on the powers of States to decide under what conditions the nationality will be conferred, it is important to mention *Advisory Opinion of the Inter-American Court on Human Rights on the Amendments to the Naturalization Provision of the Constitution of Costa Rica*, which reads:

“[D]espite the fact that it is traditionally accepted that the conferral and recognition of nationality are matters for each State to decide, contemporary developments indicate that international law does impose certain limits on the broad powers enjoyed by the State in that area and that the manner in which States regulate matters bearing on nationality cannot today be deemed to be within their sole jurisdiction; those powers of the State are also circumscribed by their obligations to ensure the full protection of human rights. The classical doctrinal position, which viewed nationality as an attribute granted by the State to its subjects, has gradually evolved to the point that nationality is today perceived as involving the jurisdiction of the State as well as human rights issues.”³⁴

The international law and human rights law in particular are therefore changing the perception of nationality as a matter solely under the jurisdiction of a State and the protection of individual is slowly gaining preference over the state sovereignty. In this light, there may be identified further principles, alongside the obligation to *avoid statelessness, prohibition of arbitrary deprivation of citizenship and the right to nationality*, which limits the states when it comes to nationality attribution. These limits are *principle of non-discrimination and the doctrine of rule of law*.

3.4.1 Principle of non-discrimination

As the UNHCR guidelines on statelessness suggest: *“All nationality laws have distinctions and not all persons will be equally connected with all States. Nevertheless, in some cases persons are unable to acquire nationality in any State despite very strong ties which are sufficient for the grant of nationality to other equally situated persons. There may be either overt discrimination or discrimination created inadvertently in the laws or through their implementation.”³⁵* This basically means, that while states may differentiate which groups are given facilitated access to citizenship, this differentiation has to be always in line with the principle of non-discrimination.

We have already said that not granting naturalization may be also construed as deprivation of nationality. However, it is important to note that, the rules governing deprivation of nationality in its strict sense, as denationalization, are not completely the same as rules related to naturalization. It is demonstrated especially by different interpretation of *discriminatory deprivation of nationality*, which is commonly agreed as a major element of the prohibition of deprivation of citizenship.³⁶ *“Depriving somebody of [their] citizenship is a grave intrusion into a basic human right, whereas not granting naturalization in a discriminatory procedure*

³⁴ Inter-American Court on Human Rights: *Advisory Opinion, Amendments to the Naturalization Provision of the Constitution of Costa Rica*. paras 32 - 5

³⁵ UN High Commissioner for Refugees: *Guidelines: Field Office Activities Concerning Statelessness*. page 6.

³⁶ Donner, R.: *The Regulation of Nationality in International Law*; Chan, J.: *The Right to a Nationality as a Human Right - The Current Trend towards Recognition*.

is in most cases not. ³⁷ This clearly indicates that not granting naturalization amount to violation of international law, but the threshold is higher. The principle of non-discrimination in context of acquisition of nationality via naturalization therefore differs from general principle of non-discrimination.

The general principle of non-discrimination is recognized as a valid principle of international customary law and it is incorporated under numerous human rights instruments. The prohibition of racial discrimination is even recognized as a principle of *jus cogens*.³⁸ In this light, the State is prohibited to “withhold or withdraw the nationality of an individual on the basis of a distinction that is deemed unreasonable and untenable, such as on the grounds of some immutable characteristic like skin color,”³⁹ because it would amount to *discriminatory deprivation of citizenship*. However, discriminatory grounds are not homogenous under all international documents. The term “*racial discrimination*” prohibits distinctions based on “*race, color, descent, or national or ethnic origin.*”⁴⁰ Other non-discrimination clauses add some other grounds, bringing us to the complete list of: *race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.*⁴¹ However, we cannot automatically conclude that the differentiation on any of these grounds in the context of nationality amounts to discrimination. At present, only prohibition of racial discrimination is absolute, but the practice with regard to the other grounds mentioned above is not unified. It is still to be crystallized “*to what extent differentiation on each of the grounds enumerated above is considered to amount to discrimination in the specific context of nationality attribution*” and “*whether such discrimination is prohibited in all questions of nationality attribution or only in reference to, for example, denationalization.*”⁴²

With regard to the first issue, *1997 European Convention on Nationality* and its *Explanatory Report* provides some insights at least into European legal context. The Convention is listing only “*sex, religion, race, color or national or ethnic origin*” (Article 5), as prohibited discriminatory grounds, clarified further in *Explanatory Report* as a choice based on the fact, that the differentiation on the other grounds e.g. language or property in the specific context of nationality attribution is not discriminatory.⁴³

Regarding the second issue, the current practice suggests that states are granted greater freedom in questions of naturalization than in other cases of attribution of nationality, namely, denationalization and attribution of nationality to a child at birth. Notwithstanding that, the State is still bind by the *superior norms*⁴⁴ such as prohibition of racial discrimination. In addition, the State should not raise “*unreasonable impediments*” to the acquisition of nationality by naturalization.⁴⁵ The later principle may serve as „*an important interpretative tool in assessing the compliance with human rights standards of any obstacles that stateless*

³⁷ Bauböck, R.: *Transnational Citizenship. Membership and Rights in International Migration*. page 135. See also James Goldston,: *Holes in the Rights Framework: Racial Discrimination, Citizenship, and the Rights of Noncitizens*. page 333.

³⁸ Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 103

³⁹ *Ibid.* p. 102

⁴⁰ Article 1 of the *1965 Convention on the Elimination of All Forms of Racial Discrimination*.

⁴¹ Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 104

⁴² *Ibid.* p. 105

⁴³ Council of Europe: *Explanatory report to 1997 European Convention on Nationality*. para 40

⁴⁴ Inter-American Court on Human Rights: *Advisory Opinion on the Proposed Amendments to the Naturalisation Provision of the Constitution of Costa Rica*. para. 36.

⁴⁵ Human Rights Committee: *Individual complaint of Capena v. Canada*. para. 11.3.

persons encounter within the context of naturalization.⁴⁶ Moreover, taking into account the vulnerable position of stateless population, it may significantly contribute to the promotion of facilitated access to naturalization.

3.4.2 Rule of law

There are many definitions which are trying to clarify the term “rule of law,” In its broadest sense, the term covers also the principles of non-discrimination or respect for human rights, discussed above.⁴⁷ However, here we would like to concentrate on its narrow sense implying first and foremost the superiority of law. In this sense the rule of law is based on four principles, namely:

“a) a system of self-government in which all persons, including the government, are accountable under the law;

b) a system based on fair, publicized, and broadly understood and stable laws;

c) a fair, robust and accessible legal process in which rights and responsibilities based in law are enforced; and

d) ... competent and independent lawyers and judges.”⁴⁸

In our context, the principle of rule of law basically implies that naturalization procedures should be firstly, clearly articulated by law and secondly, decided according to law in a foreseeable and consistent manner in compliance with due process guarantees. In this light, there should be also an opportunity to apply for a review of the decision on attribution of nationality. Unfortunately, international law is not very explicit when it comes to procedural obligations of states specifically in the context of nationality attribution.⁴⁹

Only the 1997 *European Convention on Nationality* is more specific in this respect and, apart from general principles listed under Article 4, it contains number of additional due process guarantees in chapter IV on “*Procedures relating to nationality.*”(see 8.2 *Naturalization proceedings*). Again, we cannot say that these obligations are binding only for States which ratified the Convention, because the approach of other universal and regional human rights instruments is similar and most of them recognize the *right to effective remedy*.⁵⁰ In this light we can conclude that “*the right to appeal against decisions, in particular arbitrary or discriminatory ones, in matters relating to naturalization has to be made an integral part of the policy on naturalization.*”⁵¹

⁴⁶ Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 368

⁴⁷ See e.g. *European Commission for democracy (Venice Commission): Report the rule of law: Concept, guiding principle and framework by Mr. Frithjof EHM*

⁴⁸ Kennedy, A.: Associate Justice, United States Supreme Court, Address at the ABA Annual Convention (August 5, 2006)

⁴⁹ Within the European regional context, decisions relating to nationality are not subject to the guarantees associated with the right to a fair hearing. See e.g. *European Court of Human Rights, Case of X. v. Austria*, Application No. 5212/71, Decision on Admissibility, 5 October 1972.

⁵⁰ See e.g. Article 2, paragraph 3 of the 1966 *International Covenant on Civil and Political Rights* and Article 8 of the 1948 *Universal Declaration of Human Rights* which states: “Everyone has the right to an effective remedy by the competent national tribunals for acts violating fundamental rights granted him by the constitution or the law”.

⁵¹ CERD: *Concluding Observations: Switzerland*, A/57/18, New York: 2002, para. 251

4 Which nationality?

After discussing limits imposed by international law in the area of nationality, now is time to address one of the most important but also the most difficult questions in the context of naturalization of stateless persons, namely which state should feel obliged to grant a citizenship to stateless person?

Nationality and citizenship policy have always been an expression of state sovereignty. This means that even though “*international human rights law enshrines a right to nationality that right can only be provided through an exercise of state sovereignty.*”⁵² Practical enforcement of the right to nationality, „*particularly the right to nationality of persons unwanted by their states, [may then be] a sensitive, difficult and highly politicized issue.* “*In the context of migration, this is because migration is viewed negatively in most countries... [and] fostering political goodwill and support for the nationalization of irregular migrants who have no effective nationality is consequently an extremely difficult challenge. [On the other hand], in the context of persons within their country of habitual residence [in situ stateless], it is because most such cases have a long history of discrimination and conflict, which must be addressed in order to ensure effective nationality to victimized minorities.*”⁵³ The question is whether there is something what makes the stateless persons’ claim to nationality stronger?

This discussion has to be started by definition of nationality as given by notorious *Nottebohm case*. In this case, the *International Court of Justice* stated that: “*According to the practice of States ... nationality is a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interest and sentiments, together with the existence of reciprocal rights and duties.*”⁵⁴ Based on this case, the *doctrine of genuine and effective link* between an individual and a State was created. This *genuine and effective link* is commonly manifested e.g. by birth, residency, and/or descent.⁵⁵ But it remains questionable to what extent this doctrine makes the stateless persons’ claim to nationality stronger. According to *Sebastian Kohn* from the *Open Society foundation* the application of genuine link doctrine within the context of statelessness has to be approached with some caution, because it did not arise in a statelessness context and in fact it was not used to determine nationality *per se* but rather to determine when arises the right to diplomatic protection. Moreover, if not applied properly, the principle could actually contribute to statelessness e.g. if used for the purpose of stripping someone of nationality in absence of genuine and effective link to the State.⁵⁶

In conclusion, it seems that *the genuine and effective link doctrine* may be a valid argument at least in case of *in situ* statelessness (see 6.1 Estonia) where, generally, it should not be a problem to establish the link with the State as defined above, but it can still work against stateless migrants, coming to state in need of protection. In this light, the doctrine adds very little to the original premise that it is first and foremost within the domain of States to decide on the attribution of nationality, of course with regard to limits set up by international law.

⁵² The Equal rights trust: *Unravelling Anomaly - Detention, Discrimination and the Protection Needs of Stateless Persons*. p. 30

⁵³ Ibid, p. 30

⁵⁴ International Court of Justice: *Nottebohm Case (Liechtenstein v. Guatemala)*

⁵⁵ UN High Commissioner for Refugees: *Nationality and Statelessness: A Handbook for Parliamentarians*. p. 9

⁵⁶ *Sebastian Kohn*, program officer for equality and citizenship at the Open Society Justice Initiative, New York (feedback on my questions)

Even though we will see that some states are more willing to open its naturalization procedures for stateless persons than the others. We will try to find out why in last chapter of this thesis (See *10.2 Practical aspects of facilitated naturalization of stateless persons*).

5. *Facilitated naturalization*

Acquisition of nationality via naturalization in the wider sense of the term “*includes acquisition by marriage, legitimation, option, acquisition of domicile, entry into State service and, finally, grant on application, i.e. naturalization in the strict sense.*”⁵⁷ Our present study will be further focused solely on the naturalization in its strict sense or in other words “*the grant of nationality to an alien by a formal act, on an application made for the specific purpose by the alien or, if he is under disability, by a person acting on his behalf.*”⁵⁸

Criteria for naturalization vary from country to country with residence for a certain period of time as fairly universal prerequisite. But even here “*nationality laws frequently provide for the possibility of exemption from residence qualification ...*,”⁵⁹ therefore, the conclusion that “*prolonged residence is a condition of naturalization prescribed by international law*” would be wrong. In addition to residence, certain personal requirements are frequently stipulated e.g. language and/or other integration requirements, loyalty oath, economic resources requirements, good character, etc.

We have already mentioned, that some international instruments explicitly recommend states to facilitate the acquisition of their nationality for stateless persons. Unfortunately, there are no clear and comprehensive guidelines which a state should follow to facilitate its naturalization procedure for stateless persons, but the international law is neither completely mute in this area.

Firstly, we may apply *per analogiam* interpretation of facilitated naturalization for refugees also on facilitated interpretation of stateless persons. In this light, it is interesting to mention *Recommendation 564(1969) of the Consultative Assembly of the Council of Europe*, giving guidelines with a view to avoiding any perpetuation of the problems of European refugees and inviting states to facilitate naturalization „*by making every effort to remove or at least reduce, legal obstacles to naturalization such as the minimum period of residence when it exceeds five years, the costs of naturalization when it exceeds the financial possibilities of the majority of refugees, the length of time elapsing between the receipt of applications for naturalization and their consideration, and the requirement that refugees should prove the loss of their former nationality.*”⁶⁰

The same approach is apparent also under more recent explanation, which already includes stateless persons; UNHCR has explained the meaning of *facilitate* as follows:

„*To “facilitate” naturalization means that, refugees and stateless persons should be given appropriate facilities for the acquisition of the nationality of the country of asylum and should be provided with the necessary information on the regulations and procedures in force. Furthermore, it implies that national authorities should adopt legal or administrative*

⁵⁷ Oppenheim as cited by Weis, P.: *Nationality and statelessness in international law*. p.96

⁵⁸ Weis, P.: *Nationality and statelessness in international law*. p.99

⁵⁹ Ibid. p.100

⁶⁰ *Recommendation 564(1969) of the Consultative Assembly of the Council of Europe*, para 1(b)

*procedures for the benefit of refugees by which they are enabled to qualify for naturalization earlier than aliens generally, they are not required to give evidence of loss of their former nationality and that the fees normally paid for naturalization proceedings are reduced or waived.*⁶¹

The last sentence of the second definition basically concerns the *burden of proof* and it requires releasing refugees from the requirement to give an evidence of loss of their former nationality. While it does not explicitly mention also stateless persons, it is obvious that it may not be in their capacity to provide all necessary information and the pertinent documentation required for naturalization. Here we have to distinguish procedures concerning determination of statelessness and the naturalization procedures *per se*. While it would be desirable if the persons entered the naturalization procedure already officially recognized as stateless, many states have not yet put in place the procedures on the determination of statelessness, and it is dealt marginally under different procedures. For our purposes it is important to bear in mind that neither under naturalization procedures may be the burden of proof imposed entirely on stateless persons, and their specific situation should be taken into account.

Secondly, very concrete interpretation of facilitated naturalization is provided also by *Explanatory report to the 1997 European Convention on Nationality*, which requires the states, in order to comply with provision on facilitated naturalization, to „*ensure favorable conditions for the acquisition of nationality for [stateless persons] ... examples include a reduction of the length of required residence, less stringent language requirements, an easier procedure and lower procedural fees.*“⁶²

The same was elaborated also by the Council of Europe’s Committee of Ministers in its recommendation on the “*Avoidance and Reduction of Statelessness*,” which requires each state „*to facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident in its territory*“ and in particular to:

„*a reduce the required periods of residence in relation to the normal periods of residence required;*

b) not require more than an adequate knowledge of one of its official languages, whenever this is provided for by the internal law of the state;

c) ensure that the procedures be easily accessible, not subject to undue delay and available on payment of reduced fees;

*d) ensure that offences, when they are relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a State.*⁶³

Based on the foregoing we may derive several elements which may be used as guidelines for facilitated naturalization of stateless persons, namely:

⁶¹ UN High Commissioner for Refugees BiH press release. *Positive steps forward in the field of citizenship*. 3 August 2006, As cited by Walker, S. G.: *From refugees to citizen? Obstacles to the naturalization of refugees in Uganda*. p 10

⁶² Council of Europe: *Explanatory report to 1997 European Convention on Nationality*. para 52

⁶³ Council of Europe: *Recommendation R (1999) 18 of the Committee of Ministers to Member States on the Avoidance and Reduction of Statelessness*, section IIB

- *reduced period of residence not exceeding five years,*
- *adequate knowledge of not more than one official language,*
- *reasonability of good character requirement,*
- *reduced or waived costs of naturalization,*
- *accelerated procedures and*
- *assistance for stateless persons in form of relevant information concerning the regulations and procedures in force.*

These guidelines refer to material as well as procedural aspects of naturalization. Material aspects of naturalization for purposes of this study are requirements for naturalization as provided under nationality laws (e.g. residence, language and other integration requirements, good character, economic resources requirements and loyalty and national security). On the other hand, procedural aspects refer to procedure *per se* since submission of application to final decision on nationality. All these aspects and their compliance with the above guidelines will be discussed in more details in second part of my work. For now we can conclude, that the obligation of *facilitated naturalization* requires states to „*simplify or relax some of their naturalization requirements and to facilitate – or at least not impede – access to citizenship for the stateless.*“⁶⁴

⁶⁴ Van Waas, L.: *Nationality matters: Statelessness under international law.* p. 369

Part 2 Comparative Study

In this part of my work I will assess the chances of stateless persons to get naturalized in Estonia, Hungary and Slovakia. I will focus on, firstly, whether domestic nationality law provides for facilitated naturalization of stateless persons and secondly, to what extent is actually the access to citizenship for stateless persons facilitated.⁶⁵

The comparative study itself is divided into five parts. First part shortly outlines the profiles of chosen states. The second and third parts address in more details material and procedural aspects of naturalization. Finally, fourth part considers what other aspects may facilitate or, the contrary, to hinder the naturalization of stateless persons. Findings are recoded into charts based on adjusted MIPEX 2010 Indicators.⁶⁶ The whole comparative study is terminated by a set of recommendations and final reflections with regard to topic in focus.

6 Profiles of chosen states

6.1. Estonia

Estonia is interesting for the purposes of my research primary because it belongs among states with the largest stateless population in Europe (see Appendix 2).

When Estonia regained its independence, Estonia's new political leadership decided to restore the pre-war Estonian state with significant implications for the nationality law. In 1992, the *1938 Citizenship act* was re-adopted, what basically meant that „*only those persons who themselves or whose parents possessed Estonian nationality before 16 June 1940 - the day of the Soviet ultimatum which was followed by the Soviet annexation of Estonia - had a legal claim to Estonian nationality.*“⁶⁷ As a result, about one third of Estonia's population (mostly ethnic Russians and other Russian-speaking minorities) became stateless or with *undefined citizenship*. To become Estonian citizens they had to apply for naturalization or alternatively, while residing in Estonia, to remain *individuals with undefined citizenship*, become citizens of other countries, including the Russian Federation, or to leave Estonia altogether. Basically all of these options appeared in practice.⁶⁸

In 1995 a new *Citizenship Act* was adopted which integrated the regulations on citizenship with some modifications. It is widely believed that the requirements as introduced by 1995 Act, especially language requirements, were more difficult to fulfill than the previous ones.⁶⁹ Estonia was regularly encouraged by international actors to facilitate the process of naturalization, especially during the country's accession to the European Union. In 1997, the country even launched a policy of integration for non-Estonians. However, since the admission to the European Union, debates on citizenship have been taken over by internal incentives. „*The majority of Russian-speakers still heavily criticize the naturalization policy*

⁶⁵ Please note that we will focus exclusively on naturalization in its strict sense, even though it is not excluded that states may and often provides further preferences to stateless persons if also other factors are present (e.g. marriage, minor child etc.)

⁶⁶ See Methodology, IV Assessment based on adjusted MIPEX 2010 Indicators and Appendix 3

⁶⁷ Thiele, C. *The Criterion of Citizenship for Minorities: The Example of Estonia*. ECMI working paper. 1999 p. 14

⁶⁸ Jarve, P., Poleshchuk, V.: *Country Report: Estonia*. p. 1

⁶⁹ Ibid. p. 5

as overly restrictive and a violation of human rights, while ethnic Estonian think that the national citizenship politics are normal and adequate to international standards.”⁷⁰

Estonia has signed and ratified the majority of international human rights instruments but neither of crucial documents concerning citizenship and statelessness (see Appendix 1). Most of the rules governing naturalization may be found in the *1995 Citizenship Act*. The Act does not explicitly provide for facilitated naturalization of stateless persons. However, it is important to note that “*stateless non-citizens in Estonia enjoy the same rights and free access to social protection as citizens.*”⁷¹

6.2 Hungary

Hungarian nationality law is first and foremost based on the principle of ethnicity. This is the best demonstrated by *Act XLIV of 2010 amending 1993 Act on Nationality* introducing preferential naturalization for ethnic Hungarians “*whose origin from Hungary is probable, and whose Hungarian language knowledge is proved.*”⁷² Hungarian nationality law does list stateless persons between groups which are given preferential treatment, but the regime is far less facilitated as for example the one for ethnic Hungarians or even recognized refugees. In this light, naturalization and its preconditions are criticized as being “*time-consuming and expensive and the requirements for documentation as too bureaucratic.*”⁷³

Hungary belongs to countries with smaller number of stateless persons (see Appendix 2). Nevertheless, it is a party to basically all relevant international instruments. Legislation adopted in 2001⁷⁴ defined statelessness and gave some rights to stateless persons. But it was only after the 2006–2007 reform of immigration legislation when Hungary introduced more sophisticated protection framework and became one of first states with identification mechanism and specific protection status for stateless persons.⁷⁵

It is specially the combination of ethnic citizenship policy together with progressive legislation in the field of statelessness, which made me to choose Hungary for the purposes of this research.

6.3 Slovakia

The population of Slovakia is composed predominantly (85, 8%)⁷⁶ of ethnic Slovaks and the nationality law of the country is also rather ethnic orientated. But even though there is no large stateless population (see Appendix 2), Slovakia ratified all relevant international instruments related to statelessness and apparently it is applying “*one of the most preferential*

⁷⁰ Jarve, P., Poleshchuk, V.: *Country Report: Estonia*. p. 1

⁷¹ Vetik, R.: *Statelessness, citizenship and belonging in Estonia*. In Blitz, B. K., Lynch, M.: *Statelessness and citizenship: a comparative study on the benefits of nationality*. p. 235

⁷² This applicant has to meet two further requirements: first, a clean criminal record according to Hungarian laws and not being indicted in any criminal proceedings before a Hungarian court; second, his/her naturalization must not be considered a threat to the public order or national security of the Republic of Hungary. Unlike for ordinary naturalization, neither residence or subsistence in Hungary, nor a test on knowledge of the constitution is required. See Article 4(3) *1993 Act on Nationality* as amended by other laws.

⁷³ Kovacs, M., Toth, J.: *Country Report: Hungary*. p. 2

⁷⁴ See Act XXXIX of 2001 *on the Entry and Stay of Foreigners*, Section 2 (b) and Government Decree No. 170/2001 (IX.26.) *on the implementation of Act XXXIX of 2001 on the Entry and Stay of Foreigners*, Section 25 (4)

⁷⁵ Hungarian Helsinki Committee: *Statelessness in Hungary: The Protection of Stateless Persons and the Prevention and Reduction of Statelessness* p. 11

⁷⁶ http://www.indexmundi.com/slovakia/demographics_profile.html

regimes with respect to facilitated naturalization of stateless persons.”⁷⁷ The main rules governing naturalization may be found in *1993 Citizenship Act* in conjunction with *Administrative Act*.

On the other hand, Slovakia still has not implemented specific protection status for stateless persons and it has only recently introduced definition of statelessness under the new *Aliens Act*⁷⁸ together with other modifications in favor of stateless persons, aimed to resolve their uncertain situation which was the case before the amendment.⁷⁹

Slovakia deserves the place in this study especially due to its very favorable naturalization regime for stateless persons.

7 Material requirements

I have identified the following material requirements for naturalization frequently stipulated under nationality laws: *residence, language and/or other integration requirements, good character, economic resources requirements, loyalty to the State and national security*. These requirements will be now discussed in more details, taking into account the international and European standards as discussed in the first part of this work. The principle of not raising “*unreasonable impediments*” to naturalization will serve us as an interpretative tool. This will help us to evaluate naturalization procedures on two levels: “*firstly ... whether the conditions set may generally be considered appropriate and secondly, whether the requirements, while initially deemed legitimate, in fact amount to unreasonable impediments when applied with respect to the stateless.*”⁸⁰

7.1 Residence

As was already stated, residence for a certain period of time is generally accepted as a legitimate requirement for naturalization and it is recognized as a credible indicator of a genuine link between an individual and a state.

One example of a very concrete standard for residence requirement is provided by the *1997 European Convention on Nationality* which determines that States may not demand more than ten years of lawful residence as a pre-condition to naturalization.⁸¹ Obviously, the period of time for purposes of facilitated naturalization of stateless persons should be even shorter. *Recommendation 564(1969) of the Consultative Assembly of the Council of Europe* interpreting the facilitated naturalization of refugees instructs to reduce minimum period of residence when it exceeds five years. As was already suggested, the interpretation may be applied *per analogiam* also on facilitated naturalization of stateless persons.

However, we have to be cautious from which moment the national legislation start to count the waiting period. The general practice is that *,for the stateless, or any non-national, to*

⁷⁷ Hungarian Helsinki Committee: *Forgotten Without Reason: Protection of Non-Refugee Stateless Persons in Central Europe*. p. 34

⁷⁸ Act No. 404/2011 Coll. on *Residence of Foreign Nationals* as amended by other laws.

⁷⁹ Explanatory Report to Act No. 404/2011 Coll. on *Residence of Foreign Nationals* as amended by other laws.

⁸⁰ Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 368

⁸¹ Article 6 (3) of the *1997 European Convention on Nationality*. as cited by Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 367

*benefit from a right to (facilitated) naturalization, they must first establish lawful and habitual residence on the territory of the State in question.*⁸² The right of access to lawful and habitual residence for stateless persons is not provided for under the *1954 Convention*, nor is it decisively settled in any human rights instruments. But it undoubtedly adds an interesting dimension to the assessment of the residence requirement and raises several issues which have to be considered in this context.

It is important to realize, that even if a waiting period for naturalization is relatively short, but a stateless person is not able to meet requirements for (lawful and habitual) residence, the period will never start to count and a stateless person will not practically have an access to such a procedure. Or even more importantly, it may be the case that states require certain period of time to lapse even before a person is able to establish their lawful and habitual residence. Such a period then have to be added to waiting period required for naturalization to create an accurate picture of time within which a person may be naturalized. One may argue that unlawfully present stateless persons are equally in need of facilitated access to citizenship but due to the requirement of lawful and habitual residence, they are practically barred from the access to naturalization procedure. International law, however, does not prevent states to offer access to (facilitated) naturalization also to unlawfully present stateless persons on a voluntary basis. General formulation of *1954 Convention* does provide space for such interpretation, but without further guidelines, it is highly unlikely that states would do so.⁸³ Firstly, without *jus domicilli* it could be problematic to find another connection with the State, and secondly, if states wished to apply such an approach systematically, they would still have to designate from which moment a waiting period for naturalization should be counted. This might prove difficult as far as unlawful stay of any person is often hidden to state authorities.

What makes the determination of this period even more complicated, compared to e.g. facilitated naturalization of refugees, is the fact that the most of states have not yet introduced determination procedures for statelessness, while most of them have already functioning asylum procedures. The UNHCR e.g. believes that a standard for residence requirement for facilitated naturalization of refugees should be five years, while this period should, where relevant, includes also periods spent in the country whilst asylum applications are under consideration.⁸⁴ The same could be a standard in case of statelessness if determination procedures become a common practice.

Now we will look at residence requirement as applied by chosen States.

7.1.1 Estonia

The *Citizenship Act* requires an alien who wishes to acquire Estonian citizenship the following:

- “a) have a residence permit of a long-term resident or the right of permanent residence;*
- b) have lived in Estonia on the basis of a residence permit or the right of residence for at least eight years prior to the date on which he or she submits an application for Estonian citizenship and permanently at least the last five years;*

⁸² Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 369

⁸³ *Ibid.* p. 370

⁸⁴ UN High Commissioner for Refugees: *Borders, Citizenship and Immigration Bill*. Parliamentary Briefing. House of Lords Second Reading, para 6

c) have legally and permanently resided in Estonia on the basis of a residence permit of a long-term resident or the right of permanent residence for six months from the day following the date of registration of the application for Estonian citizenship;

d) have a registered residence in Estonia... ”⁸⁵

The permanent stay in Estonia is by Act interpreted as “*legal stay in Estonia for at least 183 days per year, provided that absence from Estonia does not exceed 90 consecutive days per year.*”⁸⁶ In practice this means that a person have to reside in Estonia based on any residence permit during eight year period and five years permanently, but by the day of application he/she has to receive a long-term residence permit or the right of permanent residence (see below) to be entitled to apply for naturalization. Together with 6 months period after registration of application it makes a waiting period of 8.5 years to get naturalized.

The law therefore does not explicitly provide for special regime for stateless persons, only six month requirement does not apply to persons who settled in Estonia before 1 July 1990.⁸⁷ In other words, they need 8 years to naturalize. This exception targets first and foremost the population who became stateless as a consequence of nationality law coming in force upon Estonian independence, but obviously not stateless population as such. The stateless persons not falling under this exception would still have to meet the said requirement.

The issue of residence permits to the third country nationals and persons with undetermined citizenship or stateless persons is regulated by the *2010 Aliens Act*⁸⁸ and provides for temporary (*Tähtajaline elamisluba*) and long-term residence permit (*Pikaajalise elaniku elamisluba*). Right of permanent residence is irrelevant for our purposes because it only applies to EU citizens.⁸⁹ Long-term residence permit, on the other hand, may be issued to an alien who:

„a) has stayed in Estonia permanently on the basis of temporary residence permit for at least five years directly prior submitting an application for long-term residence permit;

b) holds valid temporary residence permit;

c) has registered residence in Estonia;

d) has permanent legal income for subsistence in Estonia;

e) is covered with health insurance;

f) complies with the integration requirement, i.e. has knowledge of the Estonian language at least at B1 level established by the language act or level corresponding to that. “⁹⁰

This leads us directly to the requirements for temporary residence permit. The general conditions of the issue of a temporary residence permit are the following:

„a) justification of the purpose for settling in Estonia;

b) actual residing place in Estonia;

⁸⁵ § 6 1995 Citizenship Act as amended by other laws.

⁸⁶ § 11 1995 Citizenship Act as amended by other laws.

⁸⁷ Ibid. § 33

⁸⁸ *2010 Aliens Act as amended by other laws available via*
<http://www.legaltext.ee/et/andmebaas/ava.asp?m=022>

⁸⁹ See <http://www.politsei.ee/en/teenused/right-of-residence/>

⁹⁰ see <http://www.politsei.ee/en/teenused/residence-permit/long-term-residence-permit/>

c) *sufficient legal income which would enable subsistence of the alien and his/her family in Estonia;*

d) *insurance cover for costs of cure caused by illness or injuries of an alien.*⁹¹

The Act then provides separately supplementary conditions for the issue of a temporary residence permit on a specific basis, namely, to settle with a spouse or with a close relative; for study, employment or business; in case of sufficient legal income; on the basis of treaty or in case of substantial public interest.⁹² General conditions do not have to be met for all specific purposes, but the application can be further refused based on extensive list of grounds considering public order, national security and protection of public health. Possible issuance of exceptional residence permit, otherwise falling under the refusal, is left to the discretion of the competent authority. The *Aliens Act* finally provides for a limited possibility to issue temporary residence permit on humanitarian grounds for the performance of international obligations.⁹³

Knowing the requirements for establishing lawful and habitual residence in Estonia, it might be very difficult for a stateless person, especially those coming to Estonia in need of protection, to meet them. But even if stateless person would be able to meet all the requirements, knowledge of Estonian language included and to obtain long-term residence permit, it would take at least 8.5 years before such a person could get naturalized. As we see the regime of residence permits is very strict and in combination with restrictive immigration policy of Estonia setting annual quotas on a number of residence permits issued, it might appear as an impossible goal to achieve.

On the other hand, for *in situ* stateless, entitled *inter allia* to issuance of travel documents, might appear more problematic requirement of permanent residence not allowing for absence from Estonia exceeding 90 consecutive days per year, especially if they decide to travel or work abroad. In this regard more flexible interpretation would be appropriate.⁹⁴

7.1.2 Hungary

A general requirement for an alien applying for Hungarian citizenship is continuous/uninterrupted residence in Hungary for at least eight years.⁹⁵ Certain groups are granted preferential treatment. The waiting period for stateless persons has been reduced from eight to five years.⁹⁶ Further exemption from the requirement of residence for the given duration (as well as from some other requirements) may be given by the President of the Republic upon the recommendation of the Minister responsible for citizenship matters if the

⁹¹ § 117 2010 *Aliens Act as amended by other laws*. see also <http://www.politsei.ee/en/teenused/residence-permit/temporary-residence-permit/settling-with-a-spouse/>

⁹² Ibid. § 118, see also <http://www.politsei.ee/en/teenused/residence-permit/temporary-residence-permit/>

⁹³ Ibid § 122-127

⁹⁴ See e.g. Slovakia, allowing for absence not exceeding 180 days.

⁹⁵ Section 4 (1) Act LV of 1993 *On Hungarian Citizenship* as amended by other laws.

⁹⁶ Ibid. Section 4 (4); Only if a stateless foreigner is married to a Hungarian citizen for at least three years (or the wedlock ended because of the death of the spouse), if his/her minor child is a Hungarian citizen or if he/she is adopted by a Hungarian citizen, the period of mandatory residence before application is reduced to three years. This most preferential treatment is applicable in case of recognized refugees as well.

naturalization of the applicant is in the overriding interest of the Republic of Hungary.⁹⁷ However, this exceptional rule is not applicable on stateless persons in practice.⁹⁸

It is important to emphasize, that the reduced period of five years for stateless persons is counted from the date when they establish a place of residence in Hungary, it means since they obtain *permanent resident status*, not from their recognition as stateless, contrary to e.g. refugees. This adds additional time to the waiting period of five years.

Residence of foreigners in Hungary is governed by the *Act on the Entry and Stay of Third-Country Nationals*. Under this Act, stateless person may be granted temporary residence preferentially or, if recognized as stateless, residence permit on humanitarian grounds. On the other hand, regarding the right of permanent residence, stateless persons are considered together with other applicants without any preference.

Hungary has currently in place three different regimes for obtaining the right of permanent residence, two of which are of relevance for stateless persons: the *national permanent residence permit (nemzeti letelepedési engedély)* and the *EU permanent residence permit (EK letelepedési engedély)*. Both regimes foresee a common list of material conditions (e.g. ensured livelihood, accommodation, entitlement for full range of health care services, valid travel document, etc.)⁹⁹ and additional negative conditions (e.g. it is not possible to obtain a permanent residence permit with a criminal record, unless the person has been absolved from its legal consequences; with a ban on entry or if the permanent residence of the person concerned would constitute a risk to national security).¹⁰⁰ The main difference between the two regimes is that the national permanent residence permit requires three years of continuous and lawful stay, while the EU permanent residence permit requires five years. At the same time only the EU permanent residence permit entails wide set of rights attached to long-term residence in another EU member state.¹⁰¹

The regime for permanent residence indicates that even under the most optimistic scenario a minimum period of three years have to be added to the waiting period of five years, counting then in reality for at least eight years before a stateless person may be naturalized. In comparison, refugees may be naturalized after three years since the recognition of their status. In this light, stateless persons are considerably disadvantaged.

7.1.3 Slovakia

General requirement of residence for an applicant applying for citizenship of Slovakia is an eight-year uninterrupted permanent residence. Stateless persons, however, fall under the exemption provided for under Article 7 (2) h) *Citizenship Act*, requiring uninterrupted residence in the territory of Slovakia for only a period of at least three years immediately preceding the filing of the application for naturalization. At the same time, uninterrupted residence is interpreted as a residence based on the residence permit pursuant to *Act No.*

⁹⁷ Ibid. Section 4 (7)

⁹⁸ Judit Tóth, Associate Professor of Law and Constitutional Law at the University of Szeged (feedback on our questions)

⁹⁹ Aliens Government Decree, Section 94 (1). For the list of recognized travel documents see Government Decree 328/2007 (XII. 11.) on the Recognition of Travel Documents for the Purposes of Entry in Hungary by Third-Country Nationals.

¹⁰⁰ Section 33 (2) Act XXXIX of 2001 *on the Entry and Stay of Foreigners* as amended by other laws.

¹⁰¹ Hungarian Helsinki Committee, *Statelessness in Hungary: The Protection of Stateless Persons and the Prevention and Reduction of Statelessness*. p. 37

404/2011 Coll. on Residence of Foreign Nationals. Absence from Slovakia exceeding 180 days and time of prison sentence service do not count as uninterrupted residence.

The *Act on Residence of Foreign Nationals* distinguishes temporary residence permit (*prechodný pobyt*), granted for one of the purposes listed in the Act (e.g. employment, study, family reunion), permanent residence permit (*trvalý pobyt*), long-term residence permit (*dlhodobý pobyt*) and tolerated stay (*tolerovaný pobyt*) and provides for different conditions which have to be met for each of them. In our context, the most relevant is § 46(2) which allows to grant permanent residence permit for undetermined period to a stateless person even if the conditions provided for under the Act are not met. The stateless person has to only prove that he/she is stateless by proving that he/she does not have a citizenship of the country of his/her birth; the one of his/her previous domicile or residence, neither a citizenship of his/her parents or other relatives.¹⁰² This decision is discretionary based on the circumstances of a particular case.

7.1.4 Comparative analysis

A stateless person could be naturalized in Slovakia within the shortest period of three years of uninterrupted residence. There should be neither a problem to obtain residence permit for undetermined period if a stateless person proves that he/she is stateless, irrespective of other requirements of the *Act on Residence of Foreign Nationals*. However, Slovakia could still introduce separate procedure for identification of statelessness eventually with the granting of separate protection status at the end. Under these circumstances a waiting period for naturalization of stateless persons could be counted from the moment of submission of such application (not from the issuance of residence permit) and if a status is granted a stateless person filing the application on the entry to the country could be literally naturalized within three years of their stay in the State.

Hungary, on the other hand, has the separate statelessness determination procedure but it does not fully use its potential. It starts to count the waiting period for naturalization only upon granting of permanent resident status, what consequently means that in practice stateless persons have to wait at least eight years to get naturalized. Moreover, the waiting period is too long especially in comparison with refugee regime requiring only three years of continuous residence for recognized refugees.

Finally, the situation of Estonia is specific. It only provides for some preference with regard to population who became stateless as a consequence of nationality law coming into force upon Estonian independence, but it still takes from 8 – 8.5 years to get naturalized. Moreover, for stateless persons coming to Estonia in need of protection it may be very difficult if not impossible to meet the requirements of lawful and habitual residence. This makes the Estonian regime the least favorable.

7.2 Language or other integration requirements

Second, very frequent, naturalization requirement is language and/or other integration requirements in form of test, interview or other assessment. Different nationality laws requires

¹⁰² § 46 (3) Act No. 404/2011 Coll. on *Residence of Foreign Nationals* as amended by other laws.

for instance a language test from one official language together with an integration test, usually also in the official language of the State, or only one of these requirements.

We have already discussed, that differentiation based on the language in specific context of nationality attribution does not usually amount to discrimination. UNHCR also agrees that language is fundamental to integration and cohesion of communities.¹⁰³ But even though the language and other integration requirements may be considered as legitimate for the purposes of naturalization, we have to bear in mind that they “*should exclusively be used and regarded as [elements] of integrating non-nationals and should not be used as a discriminatory means for a State to select its nationals.*”¹⁰⁴

The State should therefore not “*require more than an adequate knowledge of one of its official languages.*”¹⁰⁵ The word *adequate* deserves some attention here. In practice, it might be very difficult to establish the level of knowledge of grammar and vocabulary necessary to pass the test. According to many linguists the knowledge of 800 words of language is sufficient to conduct a simple conversation¹⁰⁶ (A2 standard). This should be also standard for naturalization tests.

The other integration requirements may be also legitimate. “*It is in principle desirable that a person who wants to enjoy benefits of citizenship also show their willingness to integrate by acquiring certain knowledge of the official language of the State and of the principles of State structure.*”¹⁰⁷ On the other hand, “*it goes ... too far to include questions which citizens of many European countries, perhaps also of [the State in question], might find difficult to answer.*”¹⁰⁸

But, even if states comply with the above standards, the language and other knowledge tests might still be problematic to pass for certain categories of applicants due to their age or physical or mental conditions. States should therefore introduce some changes in procedure or to consider waiver in relation to certain requirements where it is unreasonable to expect the language or other integration requirements to be fulfilled.¹⁰⁹

Finally, stateless persons should be given the opportunity to learn the language concerned following their arrival in the particular State,¹¹⁰ what would facilitate their integration into society and eventually enhance their chances to meet naturalization requirements. By the same token, a person should have an opportunity to prepare and familiarize themselves with the content of the tests required and in line with the interpretation of facilitated naturalization states should provide applicants with all relevant information and assistance in this regard.

Before we look at the requirement of language and other integration requirements under particular nationality laws, I assume that it is desirable to address here also procedural aspect

¹⁰³ UN High Commissioner for Refugees: *Borders, Citizenship and Immigration Bill*. Parliamentary Briefing. House of Lords Second Reading. para 11

¹⁰⁴ Committee of Experts on Nationality: *Report on Conditions for the Acquisition and Loss of Nationality*. para 36

¹⁰⁵ Council of Europe: *Explanatory report to 1997 European Convention on Nationality*. para 52

¹⁰⁶ Poleshchuk, V.: *Advice not welcomed. Recommendations of the OSCE High Commissioner to Estonia and Latvia and the response*. p. 56

¹⁰⁷ *Ibid.* p. 60

¹⁰⁸ *Ibid.* p. 60

¹⁰⁹ See *per analogiam* UN High Commissioner for Refugees: *Borders, Citizenship and Immigration Bill*. Parliamentary Briefing. House of Lords Second Reading. para 13

¹¹⁰ *Ibid.* para 11

of such examination. Here is important to evaluate whether the examination is conducted by a competent authority, preferably independent from the government, and whether persons assessing the skills of the applicant have the necessary expertise to take such a decision. Other aspects of our interest are the possibility to get the final results of examination examined and the fees involved, which should be preferably waived or at least reduced.

7.2.1 Estonia

Estonian Citizenship act requires passing the examination on knowledge of the *Estonian Constitution and the Citizenship Act* and the *Estonian language proficiency examination*.¹¹¹ Examinations are organized by the *National Examinations and Qualifications Centre* controlled by the Ministry of Education and Research.¹¹²

Generally, there is no special regime or exception applying to stateless persons. The only persons released from examination are persons with restricted legal capacity¹¹³ and persons, who are not able to pass the exams partially or fully due to their state of health. Decision on the latter shall be passed by the commission of experts established by a directive of the Minister of Education and Research, in co-ordination with the Minister of Social Affairs on the basis of statement of the attending physician, confirming inability of the person to comply in part or in full with the said tests due to their state of health. If a person is not satisfied with the decision he/she may appeal within thirty days to an administrative court.¹¹⁴ In addition, persons, who have acquired the basic, secondary or higher education in the Estonian language are released from the Estonian language proficiency exam,¹¹⁵ and persons born prior to 1 January 1930 are exempt from its written part but do have to take a written test from the Constitution and the Citizenship Act.¹¹⁶

Generally, an applicant is required to pass at least the B1-level Estonian language proficiency examination to be naturalized as a citizen of the Republic of Estonia. The *Estonian Citizenship Act* is very specific to this point. The test consists of the following segments from which each gives the examinee a maximum of 25 points:

- “a) listening comprehension (official statements and announcements; danger and warning announcements, news, descriptions of events and explanations of phenomena);*
- b) speech (conversation and narration, use of questions, explanations, assumptions and commands; expressing one’s opinion; expressing one’s wishes);*
- c) reading comprehension (official statements and announcements; public notices, news, sample forms, journalistic articles, messages, catalogues, user manuals, traffic information, questionnaires, reports, minutes, rules);*
- d) writing (writing applications, authorization documents, letters of explanation, curriculum vitae; completion of forms, standard forms and tests).”¹¹⁷*

The Estonian language proficiency examinations are free for everyone and held at least once a quarter, but registration is possible all year round. A person may register either online, using

¹¹¹ § 6 (3)(4) 1995 *Citizenship Act* as amended by other laws.

¹¹² see <http://www.ekk.edu.ee/>

¹¹³ *Ibid.* § 35 (1)

¹¹⁴ *Ibid.* § 35 (3)-(11)

¹¹⁵ *Ibid.* § 7 (5)

¹¹⁶ *Ibid.* § 34

¹¹⁷ *Ibid.* § 8 (2)

the X-tee inquiry portal;¹¹⁸ via post, sending an application and the copy of passport or identity card to the *National Examination and Qualification Centre*; or filling out an application in person at the Centre, where applicants may attend also free consultations to familiarize themselves with the content and format of the exam or to take a sample test.

Since 1 January 2004, the *Citizenship Act* provides also for a possibility of compensation of the expenses spent on language training upon application filed after an applicant passes the Estonian language exam and the knowledge of the law exam.¹¹⁹ This means not only that applicants will not get reimbursed if they happen to fail the test, but many may get discouraged by initial investment to language training and to decide not to apply for examination neither naturalization. Moreover, the amount of compensation is limited by the Government of the Republic (up to a value of 320 EUR), therefore it may not always cover all expenses.¹²⁰

Once the applicant decides to take a test, he/she has to score at least 60% of the total score to pass. Each examinee is informed of the exam results within 30 days of the exam.¹²¹ There is also a possibility to dispute the result via appeal filed within *National Examination and Qualification Centre* within 10 days of being informed of the result.¹²² A person who passes the examination is issued a corresponding certificate.

Besides language test, other requirement for naturalization is examination on the *Constitution and Citizenship Act of the Republic of Estonia*.¹²³ The test is written, comprised of 24 multiple choice questions. The examination lasts 45 minutes and is considered passed if at least 18 questions have been answered correctly. Examination questions cover the following topics:

“a) the general principles of the Estonian public order which is provided for in Chapters I and III of the Constitution of the Republic of Estonia;

b) the fundamental rights, freedoms and duties of every person which are provided for in Chapter II of the Constitution of the Republic of Estonia;

c) the competence of the Riigikogu, the President of the Republic, the Government of the Republic and the courts in accordance with the Constitution of the Republic of Estonia;

d) the conditions and procedure for acquisition, resumption and loss of Estonian citizenship in accordance with the Citizenship Act.”¹²⁴

The knowledge test is also in Estonian; however, it is possible to use dictionaries and Estonian texts of the Constitution and the Citizenship Act as support materials. Moreover, in order to prepare for an exam, there are several support materials available at the examination centers or online (e.g. a handbook giving overview of all subjects covered in the examination)

¹¹⁸ accessible via <http://www.eesti.ee/>

¹¹⁹ § 8¹ *1995 Citizenship Act* as amended by other laws.

¹²⁰ Please note that that the said criteria apply only in case of reimbursement from state budget resources in case of application for citizenship, but *Estonian Integration and Migration foundation Our people* also runs an initiative for reimbursement of the expenses spent on Estonian language courses financed through the *European Social Fund*. This initiative is however not aimed at applicants for citizenship. For more info see <http://www.meis.ee/eng-keeleoppe-huvitamine>

¹²¹ <http://www.ekk.edu.ee/welcome-to-the-estonian-language-examination/exam-results>

¹²² <http://www.ekk.edu.ee/welcome-to-the-estonian-language-examination/submitting-an-appeal>

¹²³ § 9 *1995 Citizenship Act* as amended by other laws.

¹²⁴ *Ibid.* § 9 (1)

and everyone may also participate in free consultations on the content and the format of the test.¹²⁵

The process of registration is basically the same as the one for language proficiency tests. Generally, the examination takes place once a month. The results are communicated within 14 days and as well as in the previous case an applicant may appeal within 30 days after their release.¹²⁶

In conclusion, there are no doubts that the way how the language and integration tests in Estonia are organized has many positive elements. The procedure is transparent with lots of support to potential applicants. But the level of language proficiency requiring B1 standard may be a potential obstacle of naturalization. In addition, only partial exemption from written part of language test for elderly people is insufficient with regard to needs of this vulnerable group.

7.2.2 Hungary

Hungarian nationality law does not require separate language tests only the examination on the Constitution in the Hungarian language.¹²⁷ The following persons are according to the *Citizenship Act* exempt from the examination:

- „a) persons who are legally incompetent or are of limited capacity;*
- b) persons who earned a diploma in the Hungarian language in a Hungarian institution of higher education;*
- c) persons over 65 years of age at the time of filing the petition;*
- d) persons who are able to verify not having the capacity to take the examination because of their permanent and irreversibly deteriorated health.*¹²⁸

In this light, it seems that a stateless person would be generally obliged to take a test. The examination then takes place before the examination committee appointed by the head of public administration office competent according to the address of the applicant. The examination committee shall consist of three members, who are either civil servants holding higher political sciences and legal degrees or the qualification of administration organizer or teachers holding higher degrees who teach the subject of civics in primary schools.

The examination covers the following subjects:

- „a) Hungary’s role in the Carpathian Basin, Europe and international organizations (UN, Council of Europe, NATO, European Union),*
- b) Hungary’s national symbols and holidays (coat of arms, flag, crown, national anthem, Szózat, national holidays),*
- c) Turning points in Hungarian history (conquest of Magyars, state foundation; extinction of the Árpád Dynasty, Turkish rule, Habsburg empire, revolution and freedom fight of 1848-49,*

¹²⁵ *About the examination on the knowledge of the constitution and the citizenship act of the Republic of Estonia.* Accessible via <http://www.ekk.edu.ee/91452>

¹²⁶ *Organization of the examination on the knowledge of the constitution and the citizenship act of the Republic of Estonia.* Accessible via <http://www.ekk.edu.ee/91452>

¹²⁷ Section 4 (1) (e) Act LV of 1993 *On Hungarian Citizenship* as amended by other laws.

¹²⁸ *Ibid.* Section 4A

Austro-Hungarian compromise, World War I and II, 1956 revolution, 1990 downfall of communism),

d) Hungarian dignitaries in arts, music and sciences,

e) Best known personalities in Hungarian literature,

f) Constitutionality (Parliament, President of the Republic, the Government, the Constitutional Court and the judicial system),

g) Administrative system (central, regional, local bodies, local self-government jurisdiction),

h) Fundamental rights and obligations of citizens (freedoms, economic, social and cultural rights, protection of civil rights and obligations),

i) Hungarian citizenship (how to obtain it by birth right or otherwise, how it is terminated and how to verify it).¹²⁹

To take part in the examination, an applicant has to submit the Application for Examination and to pay the administrative fee 5.000 forints (17 EUR). Regarding the date and place of the examination, the applicant shall be informed in writing upon submission of the Application for Examination or at least 15 days before the scheduled date of the examination.

The examination consists of a written and an oral part between which an applicant may take a break of 30 minutes. If an applicant submits medical diagnosis substantiating his inability to take either part of the exam, the chairman of the examination committee may decide to forgo it. The performance of the applicant shall be rated *passed* or *failed*. If the exam is passed, a certificate shall be issued to the applicant. If applicant fails, there is no possibility to get the results examined. Any applicant who fails the examination may decide to take the test again, but the same examination fee has to be paid. If the applicant has to retake only the written or the oral exam, the examination fee is reduced to fifty percent.¹³⁰ The fee may be reduced also upon request if the applicant shows that he/she is in social need. However, this exemption is not applied preferentially on stateless persons.¹³¹

Last but not least, the opportunities to prepare for the exam are very limited. There is a free consultation with applicants at the public administration office some days before the exam, but State does not organize any preparatory courses or give an opportunity of language training. Some initiatives in this respect are organized only by some NGOs.¹³²

7.2.3 Slovakia

Applicants for Slovak citizenship generally have to prove that they master the Slovak language both orally and in writing and have at least general knowledge about Slovakia.¹³³ This requirement is verified by district authority in the seat of the region, diplomatic mission or consular office of Slovakia on the basis of

¹²⁹ Schedule No. 7 of Government Decree 125/1993 (IX. 22.) Korm., para 2

¹³⁰ For Rules and requirements of examination in basic constitutional studies see Schedule No. 7 of Government Decree 125/1993 (IX. 22.) Korm.

¹³¹ Judit Tóth, Associate Professor of Law and Constitutional Law at the University of Szeged (feedback on our questions)

¹³² Ibid.

¹³³ § 7 (3) h) Act No. 40/1993 Coll. on Nationality of the Slovak Republic as amended by other laws.

„a) interview, in which the applicant is asked questions related to himself and his relatives, as well as general questions, including, without limitation, questions from history, geography, and social and political development in the Slovakia;

b) reading aloud a randomly selected article from press in the Slovak language containing at least 500 words, handed to the applicant immediately before reading it;

c) writing a summary of the read article pursuant to letter b) by the applicant in a time limit of 30 minutes.”¹³⁴

However, pursuant to § 7 (3) h) of the *Citizenship Act*, stateless persons together with some other groups are exempt from the obligation to prove that they speak Slovak language.

7.2.4 Comparative analysis

Slovakia, again, ranks first with the most liberal regime exempting stateless persons from the requirement of language or other integration examination.

On the other hand, Estonia this time does not seem to apply the least favorable regime. But even though it has lots of positive elements, language requirement remains one of the biggest obstacles for *in situ* stateless to get naturalized. The regime designed for reimbursement of language training expenses from state budget resources neither motivates the application for naturalization. In addition, the level of language required is still too high and especially for older generation the examination is, in spite of partial exemption, too difficult to pass. The same was concluded by *Vadim Poleshchuk*. “*The tests are easy for young generation but they keep being the biggest obstacle for older generation applying for naturalization.*”¹³⁵

Finally, Hungarian regime is particularly hostile for not only stateless persons but probably for any alien applying for naturalization. The content of exam goes far beyond general knowledge about Hungarian state and according to *Gabor Gyulai*, “*it would be difficult for any Hungarian citizen to pass the test.*”¹³⁶ The examination is also charged by administration fee, which has to be paid even in case that the applicant fails and decides to take the test again. However, the biggest obstacle remains lacking support for preparation for this examination and impeded integration of stateless persons into national community.

7.3 Good character

Nationality law often requires the applicant for naturalization to be of *good character* what implies especially considerations of any criminal convictions or proceedings pending against the applicant. “*In general terms the requirements regarding character ... are intended to ensure that a successful applicant has not been engaged in undermining public safety, public order, health or morality, rights and freedoms or another person’s honor or reputation.*”¹³⁷

In this context the *Council of Europe’s Committee of Ministers* advised the states to “*ensure that offences, when they are relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of*

¹³⁴ Ibid. § 8 (6)

¹³⁵ *Vadim Poleshchuk* legal adviser - analyst, Legal Information Centre for Human Rights (LICHR), Tallinn (interview)

¹³⁶ *Gabor Gyulai*, Refugee program coordinator, Hungarian Helsinki committee, Budapest (interview)

¹³⁷ Committee of Experts on Nationality, *Report on Conditions for the Acquisition and Loss of Nationality*. para 32

a State.”¹³⁸ Further possible limitation has been argued on the basis of article 15 of the ICCPR. „It is suggested that where the conviction for a criminal offence forms a bar for the opportunity to apply for naturalization, this amounts to *ex post facto* punishment to the individual who committed the crime which is outlawed under the aforementioned article.”¹³⁹

On the other hand, it is accepted that the requirement of *good character* serves first and foremost to the protection of national security as confirmed by the *UN Human Rights Committee* which accepted that “*considerations related to national security may serve a legitimate aim in the exercise of a State party’s sovereignty in the granting of its citizenship.*”¹⁴⁰ However, it still has to be applied in a way to not create *unreasonable impediment* to naturalization.

Firstly, in line with the rule of law principle, nationality law requiring the applicant to be *of good character* should also provide for definition of this term. The formulation without further definition is too vague and may be easily abused. Secondly, minor offences should not bar the naturalization of the applicant. According to the MIPEX 2010 indicators,¹⁴¹ threshold should be set preferentially on crimes with sentences of imprisonment for ≥ 5 years. On the other hand, it should be also considered whether even these crimes should constitute a permanent barrier of naturalization, what could negatively influence especially stateless persons. States should therefore rather use qualifying periods after which a person would be again eligible for naturalization or to introduce a possibility to decide in a positive way with regard to the circumstances of the case. States should be also cautious whether they decide to consider only criminal activity under its national law or also criminal activity committed elsewhere. The country may not be familiar with the other country situation and functionality of its judiciary and a person might be barred an access to citizenship based on the unfair trial or wrongful conviction. Moreover, it could be particularly difficult for a stateless person to prove clean criminal record from any other country (see also *8 Procedural aspects*).

7.3.1 Estonia

Estonian nationality law does not explicitly list *good character* as one of the requirements for naturalization, however, taking into account an extensive list of reasons based on which an application for naturalization may be refused, it definitely plays some role.

According to § 21 (4) of the *Citizenship Act* “*Estonian citizenship shall not be granted to ... a person who has committed a criminal offence for which a punishment of imprisonment of more than one year was imposed and whose criminal record has not expired or who has been repeatedly punished under criminal procedure for intentionally committed criminal offences...*” The provision implies criminal activity in general, not only under Estonian law, but in practice mostly activity in Estonia is consider, because applicants are not asked to provide references from other countries of their previous residence.

Later an amendment to the Act provided for an exception stating that „*Estonian citizenship may be granted to a person who has been repeatedly punished under criminal procedure for intentionally committed criminal offenses and whose criminal record has expired, taking into*

¹³⁸ Council of Europe: *Recommendation R (1999) 18 of the Committee of Ministers to Member States on the Avoidance and Reduction of Statelessness*. section IIB

¹³⁹ Human Rights Watch: *Roma in the Czech Republic Foreigners in Their Own Land*, 1 June 1996

¹⁴⁰ *Vjateslav Borzov v. Estonia*. para 7.3

¹⁴¹ MIPEX 2010 indicators para 102, see also Appendix 3

consideration the circumstances relating to the commission of a criminal offense and the personality of the offender.“ Application of the said exception is discretionary, without specific preference for stateless persons; however, negative decisions may be appealed in the court.

7.3.2 Hungary

Hungarian *Citizenship Act* requires the applicant to have a clean criminal record according to Hungarian law and at the time of the assessment of the application, there may not be any criminal proceedings in progress against an applicant before a Hungarian court.¹⁴² The department of citizenship of the Ministry of Internal Affairs then checks the criminal records and the applicant’s criminal history. Criminal offences committed in other countries are considered only if discovered under security checks. The threshold for good character is, however, set rather high and even small offences may propose exclusion.

7.3.3 Slovakia

The applicant for a Slovak citizenship is required to be one of *good moral character*. The *Citizenship Act* further defines this term. A person shall not be considered to be of good moral character if

“a) [was] validly sentenced for an intentional criminal offence [punishable usually by imprisonment of more than 5 years] and less than five years passed from the expungement of the record,

b) [was] criminally prosecuted for an intentional criminal offence and the proceedings were interrupted conditionally and less than five years passed from the expiration of the trial period,

c) [was] criminally prosecuted for an intentional criminal offence and the proceedings were terminated by a court decision on assent to reconciliation and less than five years have expired from the validity of such court decision.”¹⁴³

Besides, in order to meet the requirements for naturalization, applicants may not be sanctioned by court by the penalty of being expelled; there may not be criminal proceedings maintained against them; deportation proceedings or proceedings on performance of European warrant; proceedings on administrative deportation or proceedings on forfeiture of asylum maintained against the applicant.¹⁴⁴ However, a possibility to impose some of these measures is limited in case of stateless persons.¹⁴⁵

¹⁴² Section 4 (1) b) Act LV of 1993 *On Hungarian Citizenship* as amended by other laws.

¹⁴³ §7 (b) Act No. 40/1993 Coll. on *Nationality of the Slovak Republic* as amended by other laws.

¹⁴⁴ Ibid. §7 c-g.

See also Art. 65 and 113 of the *Criminal Code*.

Art. 10(14) of the *Code of Criminal Procedure*.

Art. 489 to 514 of the *Code of Criminal Procedure*.

Act no. 403/2004 Coll. on *European warrant of arrest and on modification and amendment of other acts*.

Art. 56 to 61 of the Act no. 48/2002 Coll. as amended.

Art. 15 of the Act no. 480/2002 Coll. on *asylum and on modification and amendment of other Acts as amended by the Act no. 692/2006 Coll.*

¹⁴⁵ See. e.g. § 81 (3) Act No. 404/2011 Coll. on *Residence of Foreign Nationals* as amended by other laws which reads „A person without any citizenship can be administratively expelled only then, if s/he threatens the state safety or public order by his/her actions and the obstacles to administrative expulsion as per paragraphs 1 and 2 [principle of non-refoulement] do not apply to him/her.“

7.3.4 Comparative analysis

The regime of Slovakia seems to be meeting the standards for reasonable good character requirement. Not only Slovakia decided to take into account only intentional criminal offences punishable usually by longer imprisonment, but neither sentence or criminal prosecution equal for absolute ban on naturalization, instead, Slovakia applies qualifying periods after which a person may be naturalized.

On the other hand, one positive aspect of Estonian nationality law is that it allows for exception and reconsideration of the application otherwise not complying with good character requirement, based on *circumstances relating to the commission of a criminal offense and the personality of the offender*. The provision would have a potential of good legislative solution, if one of the groups preferentially covered were stateless persons. The application of the provision is, however, entirely discretionary and without further guidelines, the opportunity for preferential treatment of stateless persons seems to be missed. The general regime is then actually stricter than the one in Slovakia considering already offenses with imprisonment of more than only one year and the wording implying absolute ban on naturalization in case of *repeated punishment for intentionally committed criminal offenses*.

Finally, the Hungarian regime requiring clean criminal record is the least favorable and may thus create an *unreasonable impediment* of naturalization for stateless persons.

7.4 Economic resources requirements

Nationality law very often expects the applicants for naturalization to meet certain economic requirements e.g. to have a home and/or sufficient legal income to support themselves and their families or not to be in need of support from the State or local authority.¹⁴⁶ The requirements serve first and foremost to protect the social system of the particular State. Moreover, neither *1997 European Convention on Nationality* lists property under forbidden discriminatory grounds in the context of the attribution of nationality. But this requirement could be still particularly problematic to meet for stateless persons especially if it is difficult for them to obtain working permit or for other reasons e.g. disability, discrimination or simply economic recession.

There is a scattered case law from German courts dealing with the application of economic resources requirement. *The German Federal Supreme Administrative Court* for example held that homeless foreigners (the group includes also stateless people) applying for naturalization, have to show that they are capable of supporting themselves and their family.¹⁴⁷ On the other hand, the *Bavarian High Administrative Court* held that there exists a public interest in the naturalization of refugees and that their applications have to be examined with sympathy.¹⁴⁸ Finally, the *German Federal Administrative Court* has lately interpreted the economic requirement for naturalization as follows:

¹⁴⁶ Committee of Experts on Nationality: *Report on Conditions for the Acquisition and Loss of Nationality*. para 31

¹⁴⁷ BVerwGE 207/58 Nr.58 as cited by *The refugee convention, 1951*. The travaux preparatoires analysed with a commentary by Dr Paul Weis. Article 34 Naturalization

¹⁴⁸ D.Oe.V.1975 p. 578, likewise Fed. Supr. Adm. Court BVerwGE 49,49(48) as cited by *The refugee convention, 1951*. The travaux preparatoires analysed with a commentary by Dr Paul Weis. Article 34 Naturalization

“the purpose of [of such requirement] is to ask applicants for German nationality to economically integrate themselves which can be proved by their ability to financially support themselves. However, even if there is a need for social benefits, the right to acquire German nationality can only be rejected if the applicant is not responsible for this need. On the one hand, responsibility can be assessed in respect of the amount of social benefits needed. If the applicant is not responsible for the need of social benefits as such but if he increased the need for social benefits through his or her own behavior in the past, he or she ... cannot acquire German nationality.”¹⁴⁹

In the light of foregoing we can conclude that the requirement as such might be generally justifiable, but states should allow exceptions in specified circumstances.¹⁵⁰ Moreover, applications of stateless persons should be examined with sympathy and the extent to which they are responsible for their financial situation should be taken in account. Finally, one may even argue *per analogiam* that there is a public interest in naturalization of stateless persons.

7.4.1 Estonia

Estonian *Citizenship Act* requires the applicants for citizenship to have permanent legal income ensuring their subsistence and a subsistence of their dependants,¹⁵¹ as well as to have a registered residence in Estonia.¹⁵² As a permanent legal income is considered e.g. lawfully earned remuneration for work; parental benefits; unemployment insurance benefits; income received from lawful business activities or property; pensions; scholarships; alimony (maintenance support); benefits paid by a foreign state and subsistence ensured by family members earning legal income.¹⁵³ Here is important to note that persons with *undefined citizenship* living in Estonia are entitled to support and benefits from State as well as Estonian citizens. In practice it means that an applicant has to have at least some income and has to register his/her address in the *Population Registry* upon permission of the owner of an apartment and to have¹⁵⁴

The requirement is not difficult to meet, especially for *in situ* stateless applying for naturalization. Nevertheless a disparity between the rates of unemployment among ethnic Estonians and non-Estonians persists, but rather due to Estonian language proficiency than systematic exclusion of non-citizens from labor market. On the other hand, stateless migrants would have to obtain temporary residence permit first before applying for working permit and as I have already explained it can be very difficult (See *7.1.1 Estonia*). In this light for this category this requirement remains problematic.

7.4.2 Hungary

Hungarian *Citizenship Act* requires a person applying for Hungarian citizenship to have assured livelihood and residence in Hungary.

¹⁴⁹ BVerwG 5 C 22.08, summary

¹⁵⁰ Committee of Experts on Nationality: *Report on Conditions for the Acquisition and Loss of Nationality*. para 31

¹⁵¹ § 6 (5) *1995 Citizenship Act* as amended by other laws.

¹⁵² § 6 *1995 Citizenship Act* as amended by other laws.

¹⁵³ <http://www.politsei.ee/en/teenused/eesti-kodakondsus/taiskasvanule/oluline-info-taiskasvanule-eesti-kodakondsuse-taotlejale.dot> See also § 7 *1995 Citizenship Act* as amended by other laws.

¹⁵⁴ Vadim Poleshchuk legal adviser - analyst, Legal Information Centre for Human Rights (LICHR), Tallinn (feedback on my questions)

However, it is important to emphasize that even acquisition of official stateless status does not foresee any accommodation arrangements or housing allowances for stateless persons and there are no specific forms of financial support available. Stateless status ensures only limited access to labor market. Moreover, obtaining of working permit (*munkavallalasi engedely*) may be particularly difficult especially if a person obtains only humanitarian residence permit which has limited validity. In addition, a working permit can be issued for stateless persons only if there is no suitable Hungarian or EEA-citizen applicant for the same post.¹⁵⁵

In conclusion, Hungarian regime requires in practice to have long-term job and to prove a stable residential address what may be very difficult for a stateless person.

7.4.3 Slovakia

Slovak Citizenship Act does not provide for an explicit requirement of legal income or sufficient means of subsistence. It only requires the applicants to fulfill their “*duties implied by the provisions of law regulating the stay of aliens in the territory of the Slovakia, public health insurance, social insurance, old-age pension savings, taxes, deductions, fees, employment of aliens and other duties implied to foreigners by the law of the Slovakia.*”¹⁵⁶

7.4.4 Comparative analysis

Regarding favorability of economic resources requirement for stateless persons, Hungary again ranks the last. Moreover, the fact that a stateless person would generally not be able to meet the economic requirement for naturalization despite the official protection status indicates, how empty the status in practice is. In this light, even the regime of Estonia, which is integrating at least *in situ stateless* seems more favorable. Finally, Slovakia is facilitating the access to citizenship the most, not providing for explicit requirement of sufficient financial means, only for obligation to comply with legal duties stipulated for foreigners.

7.5 Loyalty to the State and security

Nationality is also defined as “*the political and legal bond that links a person to a given State and binds him to it with ties of loyalty and fidelity, entitling him to diplomatic protection from that State.*”¹⁵⁷ The nationality is therefore also about loyalty. Loyalty to the country whose nationality the applicant is seeking in combination with the oath of allegiance is accepted as legitimate requirement for naturalization under international law.¹⁵⁸

Secondly, many, if not all countries within their naturalization procedures take into account also considerations regarding national security. This may be included in the consideration of the *good character* requirement, or states may further specify „*that acceptance as a national should not affect security and defense of the nation or that an applicant should not have been involved in any activities undermining national security.*”¹⁵⁹ Refusal of naturalization on these grounds is therefore obviously defensible.

¹⁵⁵ Hungarian Helsinki Committee, *Statelessness in Hungary: The Protection of Stateless Persons and the Prevention and Reduction of Statelessness*. p. 31-32

¹⁵⁶ § 7 (1) i) Act No. 40/1993 Coll. on *Nationality of the Slovak Republic* as amended by other laws.

¹⁵⁷ See *Castillo-Petruzzi et al v. Peru*, Judgment of May 1999, IACHR [ser.C] No. 52 1999

¹⁵⁸ Committee of Experts on Nationality, *Report on Conditions for the Acquisition and Loss of Nationality*. para

33

¹⁵⁹ *Ibid.* para 38

Regarding these two requirements, the main obstacles which could bar stateless persons from naturalization, is their discriminatory application. Requirement of loyalty as such may be interpreted very broadly. It is therefore desirable if the law gives at least some guidelines how it should be applied. This may be secured also by implementation of fair and transparent process with the possibility to examine the decision.

The same applies for the national security requirement. One may even argue that stateless person should be considered on preferential terms due to more grave consequences of refusal of the application. In any case, the application for naturalization should be refused only if there are reasonable assumptions that the applicant is engaged in activity endangering the core principles of the state. In this light the *German Federal Administrative Court* for example held that „*the application to acquire German nationality cannot be rejected because of the signing of a declaration to be a member of the Kurdish labor party ... (Selbsterklaerung: Auch ich bin ein PKKler). Such a declaration is not sufficient to conclude that the applicant supports a movement that works counter to the core principles of the German state based on freedom and democracy.*“¹⁶⁰

Finally, when it comes to oath of allegiance, the needs of vulnerable groups should be taken into account and conditions for meeting the obligation adjusted where necessary.

7.5.1 Estonia

The Citizenship Act explicitly demands *loyalty to the Estonian State* as one of its requirements for naturalization.¹⁶¹ In addition, each person who wishes to acquire Estonian citizenship has to take the oath, which reads: *In applying for Estonian citizenship, I swear to be loyal to the constitutional order of Estonia.*¹⁶² In practice this is, contrary to other nationality laws, just signed by a legal representative who submits the application.

The precondition of national security is implied under list of reasons denying the right to naturalization to certain categories of non-citizens, including stateless residents. In this light, citizenship shall not be granted to persons who:

- “a) does not observe the constitutional order and Acts of Estonia;*
- b) has acted against the Estonian state and its security;*
- c) has been employed or is currently employed by foreign intelligence or security services;*
- d) has served as a professional member of the armed forces of a foreign state or who has been assigned to the reserve forces thereof or has retired there from, and nor shall Estonian citizenship be granted to or resumed by his or her spouse who entered Estonia due to a member of the armed forces being sent into service, the reserve or into retirement.*“¹⁶³

The scattered case law may shed some light on how the requirement of loyalty is applied. In 2003, there was for example a case of young man who was denied Estonian citizenship, following an intervention by the Security Police, due to statements published on his website,

¹⁶⁰ BVerwG 5 C 20.05, summary

¹⁶¹ § 6 (6) 1995 Citizenship Act as amended by other laws.

¹⁶² Ibid. § 6 (7)

¹⁶³ Ibid. § 21 (7)

which were regarded by the administration as insulting to the Republic of Estonia.¹⁶⁴ This indicates very strict interpretation of the provision.

On the other hand, the ban on naturalization applies predominantly to former Soviet security service agents, military servicemen, and their spouses.¹⁶⁵ The only exception under which a former military serviceman can get citizenship is when he or she has been married for at least five years to an individual who obtained Estonian citizenship at birth.¹⁶⁶ This discriminatory treatment has been unsuccessfully contested in the courts. Soviet military serviceman *Vjatšeslav Borzov*, a stateless resident of Estonia who married a naturalized Estonian citizen, even filed a complaint with the *UN Human Rights Committee*. He complained that he had been discriminated on the basis of his social status and social status of his wife, which is against Article 26 of the ICCPR. Estonia on the other hand submitted that „*a grant of citizenship to the author would raise national security issues generally on account of the duration and level of the author’s military training, his rank and background in the armed forces of the then USSR.*“¹⁶⁷ The Committee eventually decided in favor of the Government noting that „*although [it] is aware that the lack of Estonian citizenship will affect the author’s enjoyment of certain Covenant rights ... neither the Covenant nor international law in general spells out specific criteria for the granting of citizenship through naturalization, and that the author did enjoy a right to have the denial of his citizenship application reviewed by the courts of the State party.*“¹⁶⁸ However, it is somehow disappointing that the Committee did not consider also *Mr. Borzov’s* arguments of discrimination based on the social status of his wife, which was found inadmissible, because it was never raised before domestic courts. *Mr. Borzov* raised an interesting argument that „*there is no rational reason why marriage to an Estonian by birth would reduce or eliminate a national security risk and a marriage to an Estonian by naturalization would not.*“¹⁶⁹

In case of ban of naturalization concerning the former secret service staff members, the law does not allow for any exception at all. The absolute nature of this ban was confirmed by the *Supreme Court* judgment concerning the case of *Ms. T. Gorjatšova*, who had worked in the late 1970s for slightly over a year for the KGB as a secretary. In her case the circuit court tried to argue that „*in conformity with the constitution-conforming interpretation, § 21(1)5 of the [Citizenship Act] should be interpreted to the effect that it does not preclude granting of citizenship to those persons who had been employed by security services of foreign states, but did not fulfill the functions specific to security organizations.*“¹⁷⁰ The *Supreme Court* however annulled the decision and upheld the refusal to grant citizenship stating that „*§ 21(1)5 of the Citizenship Act prohibits, in absolute terms, excluding exceptions and discretion, to grant Estonian citizenship to a person who has been a salaried worker of an intelligence or security service.*“¹⁷¹

There is no existing practice of the refusal of the application for naturalization based on the other two grounds cited above.

¹⁶⁴ Poleshchuk, V.: *Chance to Survive: Minority Rights in Estonia and Latvia*. p. 29

¹⁶⁵ *Ibid.* p. 28

¹⁶⁶ § 21 (2) 1995 *Citizenship Act* as amended by other laws.

¹⁶⁷ *Ibid.*, para 7.4

¹⁶⁸ *Ibid.*, para 7.4

¹⁶⁹ *Ibid.*, para 3.2

¹⁷⁰ *Supreme Court General Assembly* judgment, January 3, 2008, case 3-3-1-101-06

¹⁷¹ *Ibid.*, para 32

7.5.2 Hungary

Hungarian nationality law does not list *loyalty per se* under its requirements for naturalization. However, a naturalized person (with exception of incapable persons and minors) has to take either a *citizenship oath* or a *pledge of allegiance* to acquire citizenship. Both are of equal value and read:

” I,, do solemnly swear that I shall consider Hungary my homeland. I shall be a loyal citizen of the Republic of Hungary and shall honor and observe the Constitution and laws thereof. I shall defend my country as far as my strength allows and shall serve it to the best of my abilities. So help me God.” (the pledge of allegiance does not contain the last sentence)

Finally, the *Citizenship Acts* forbids granting the citizenship if the applicant’s naturalization would be a threat to the public order or national security of the Republic of Hungary.¹⁷² Decision in this regard is based fully on discretion power.

7.5.3 Slovakia

Neither Slovak nationality law provides for the precondition of loyalty for naturalization, but an individual has to take a *vow of Slovak national* upon approval of his/her application if he/she is not exempted from it, before a deed on granting nationality is delivered (see procedural aspects 8.2.3 Slovakia). The vow reads: *“I honestly swear that I will be faithful to the Slovakia, I will adhere to the Constitution of the Slovakia, the constitutional laws, laws and other generally binding law, and I will duly fulfill all duties of nationals of the Slovakia.”*

On the other hand, considerations of public interest and security fall within the discretion of the *Ministry of Interior of the Slovak republic* deciding about the application, without any further guidelines.

7.5.4 Comparative analysis

The requirement of loyalty and protection of public interest and security is the most resonant under Estonian nationality law, what is also a consequence of historic development of the Estonian state. However, the legislative approach requiring the applicant only *to be loyal to the State*, without further guidelines is very unfortunate. More specific formulation would be desirable to prevent abuse of the provision. Moreover, even though the national security is the paramount interest of the state, the differentiation of the marriage with Estonian by birth contrary to Estonian by naturalization for the purposes of exception from the ban on naturalization, neither the absolute ban on naturalization for former employees of foreign intelligence or security services, regardless their position and responsibilities, do not seem reasonable. These provisions remain a biggest obstacle of naturalization for former Soviet security service agents, military servicemen, and their spouses. On the other hand, the oath of allegiance under Estonian law, is only formality, therefore the fact that the nationality law does not provide for exceptions for certain groups of applicants does not seem to cause any concerns.

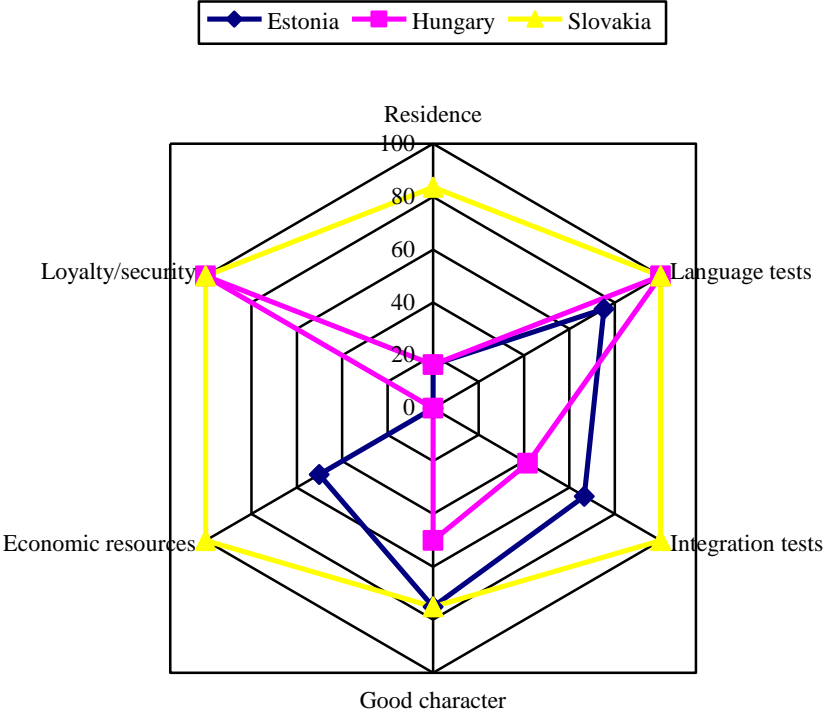
In contrary to Estonia, regime of Slovakia and Hungary is different. It does not provide for vague precondition of loyalty to the State; national security is taken into account on discretionary basis and the oath of allegiance is taken only if the application is approved as the solemn act upon which the citizenship is conferred. In this light it is appropriate that the

¹⁷² Section 4 (1) (d) Act LV of 1993 on *Hungarian Citizenship* as amended by Act XLIV of 2010, which replaced less restrictive formula of *“a threat to the interest of the state”* in the previous version of the law.

Slovak and Hungarian laws exempt from this duty persons for whom it would be unreasonable to expect taking the oath of allegiance due to their health condition or lack of legal capacity.

7.6 Findings

In light of foregoing, we can record our findings concerning material requirements for naturalization into the chart as follows:¹⁷³



The chart clearly indicates that Slovakia provides for the most favorable material requirements for naturalization of stateless persons, achieving the highest scores for each assessed category. Slovakia is followed by Estonia, where the most problematic appear to be the requirement of loyalty and residence. Finally, Hungary ranked last, where the main obstacles for stateless persons to get naturalized are economic resources requirements, good character requirement and integration tests. Hungary has the lowest score in each of these three categories.

8 Procedural aspects

In second part of my comparative study, I will focus on procedural aspects of naturalization. In this context I will discuss in more details application and documents required for naturalization and proceedings as such. Then I will evaluate the national regimes in light of principles as discussed under Part 1 of this work, in particular, in light of the rule of law doctrine.

¹⁷³ See also Methodology and Appendix 3

8.1 Application for naturalization

We will firstly look at what are States requiring to submit as a part of the application for naturalization. The main problem which I am trying to observe here is the fact that stateless persons may not always be in possession of documents required for naturalization and it may be very difficult and lengthy process to receive them, especially if they have to recourse to authorities of the country of their previous residence. It is also possible that some documents had never been issued and therefore can never be presented (e.g. birth certificate), or their submission is illogical in context of statelessness (e.g. if the proof of renunciation of previous nationality is required). In this light, insisting that a person has to present the full range of documentation may raise *unreasonable impediment* for naturalization. It is therefore more feasible if the law explicitly allows alternative forms of evidence to be utilized where certain documents cannot be delivered,¹⁷⁴ or if the burden of proof shifts to the State if a person objectively cannot provide some documents.

Other problems which may arise in this context are excessive fees charged for issuance of the documents required or the necessity to provide official translation of all documents in one of the official languages of the State, what again increases the overall costs. The guidelines for facilitated naturalization advice states to reduce costs of the procedure. These costs should not be overlooked.

8.1.1 Estonia

Estonian *Citizenship Act* provides for an extensive list of documents which have to be submitted as a part of an application for naturalization. The said documents include, *inter alia*, application form filled in by the applicant; identity document; Curriculum Vitae and documents certifying education, previous career, legal income and payment of the state fee etc.¹⁷⁵ Issuance of some of these documents is charged by small administrative fee. The *Citizenship Act* is particularly specific about Curriculum Vitae of the applicant which is supposed to be very detailed, describing “*the applicant’s career, the time and the circumstances under which he or she settled in Estonia, any persons who arrived in Estonia together with the applicant, the applicant’s marital status and any changes therein during his or her residence in Estonia, all previous residences in Estonia, information concerning immediate family, and also any ties with foreign military, intelligence or security organizations; if the applicant was born in Estonia, the time and circumstances under which his or her parents settled in Estonia shall also be set out.*”¹⁷⁶

Application and Curriculum Vitae has to be submitted always in Estonian, for other documents the law does not explicitly allows foreign documents, but in other migration procedures translations into Estonian, English or Russian are accepted. However, in naturalization procedures, in practice, almost all documents are in Estonian.

If a person fails to provide all necessary documents, the application will be regarded as having deficiencies and the applicant will be provided with opportunity to submit documents within certain period of time. If a person fails to comply with this obligation, the procedure is terminated.

¹⁷⁴ Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 368

¹⁷⁵ §12 1995 *Citizenship Act* as amended by other laws.

¹⁷⁶ *Ibid.* § 12 (2) (4)

8.1.2 Hungary

The application for citizenship shall be submitted in Hungarian, containing all information prescribed by law. The applicant shall also attach his/her birth certificate and the documents certifying his marital status, as well as other documents necessary to substantiate the satisfaction of other conditions for citizenship. Limited data not contained in the application may be obtained by the Minister if they are available among the records or documents of another Hungarian authority.¹⁷⁷ In all other circumstances the applicant is asked to provide missing data within the specified period set in due consideration of the time required for obtaining them.

Unless otherwise stated under international agreement and in the absence of reciprocity, documents made out in a foreign language shall be submitted with an authenticated Hungarian translation and if there is no insurmountable obstacle, also with diplomatic re-certification attached to the application for citizenship.¹⁷⁸

The naturalization procedure itself does not provide for any alternative form of evidence and the *Office of Immigration and Nationality* is not entitled to issue any missing personal status documents. However, it is important to note that identity and marital status of stateless person has to be determined inside of statelessness determination procedure, where the burden of proof is shared between the applicant and competent authority. The naturalization procedure therefore uses confirmed documents as obtained under statelessness determination procedure.

8.1.3 Slovakia

An application for Slovak citizenship has to contain all information required by law and has to be submitted together with documents listed under § 8 (2) *Citizenship Act*. The required documents include e.g. brief Curriculum Vitae, proof of identity, birth certificate, document on marital status, certificate on residence in the territory of Slovakia, certificate of no criminal record, not older than six months (also from other countries of his residence within last 15 years) etc. The applicant should also submit necessary documents proving that he/she fulfilled his/her „duties implied by the provisions of law regulating the stay of aliens in the territory of the Slovakia, public health insurance, social insurance, old-age pension savings, taxes, deductions, fees, employment of aliens and other duties implied to foreigners by the law of the Slovakia.”¹⁷⁹ Issuance of most of these documents is charged with administration fees.

Finally, applicants reaching 14 years of age shall also fulfill the official questionnaire issued by the Ministry of Interior of the Slovak republic.

All documents have to be submitted in Slovak or officially translated to Slovak language. If the application file is not complete, the administrative authority shall help the party to remove the deficiencies or ask him/her to do so within a stipulated period of time. If the application is not completed, proceeding is suspended.¹⁸⁰

¹⁷⁷ Section 14 (4) Act LV of 1993 *On Hungarian Citizenship* as amended by other laws.

¹⁷⁸ Ibid. Section 14 (5)

¹⁷⁹ § 7 (1) I) Act No. 40/1993 Coll. on *Nationality of the Slovak Republic* as amended by other laws.

¹⁸⁰ § 19 (3) Act No. 71/1967 Coll. on *administrative proceedings (Administrative code)* as amended by other laws.

8.1.4 Comparative Analysis

Neither of three national regimes explicitly provides for an alternative form of evidence replacing documents which objectively cannot be delivered. In this light is the most favorable Hungarian regime, applying statelessness determination procedure,¹⁸¹ under which the personal status of a stateless person is reconciled and the documents received may be subsequently used for purposes of naturalization procedure. Estonia and Slovakia not having such a procedure should at least try to provide necessary help to an applicant via its foreign missions. Without explicit guidelines, the competent authority is usually instructed to terminate or suspend the proceedings when all the documents required are not submitted, what definitely amounts to *unreasonable impediment* of naturalization.

Last but not least, the application and the other documents are generally to be submitted in national languages what might be a problem for a stateless person with none or basic knowledge of the language. In addition, administrative fees charged for issuance of required documents together with costs for official translations may substantially increase overall expenses (on costs see also next chapter).

8.2 Naturalization proceedings

1997 *European Convention on Nationality* requires the States “to ensure that applications or decisions relating to the attribution of nationality will:

- be processed within a reasonable time (article 10)
- contain reasons in writing (article 11)
- be subject to reasonable fees (article 13, paragraph 1)
- be open to an administrative or judicial review (article 12), the fee for which may not be an obstacle for applicants (article 13, paragraph 2).”¹⁸²

All above-mentioned principles and the possibility of appeal in particular “provide an opportunity [to overturn] unlawful, unreasonable or discriminatory decisions, but also [to reconsider] the position of the individual in view of the threat of statelessness. Moreover, a review mechanism is an aid in the fight against corruption and where the decision-making authority on nationality attribution has been decentralized it furthermore enables such powers to be kept in check – helping to secure compliance with standards of domestic and international law.”¹⁸³ This basically means that the law in line with the principles concerned may also enhance the chances of stateless person to get naturalized.

Now we will look at proceedings as implemented in Estonia, Hungary¹⁸⁴ and Slovakia with special interest in length of procedure, form of decision, fees and other costs and the possibility of administrative or judicial review.

¹⁸¹ Section 79 (2) Act XXXIX of 2001 *on the Entry and Stay of Foreigners* as amended by other laws.

¹⁸² Van Waas, L.: *Nationality matters: Statelessness under international law*. p. 117

¹⁸³ *Ibid.* p. 113-114

¹⁸⁴ Please note that Hungary made reservations with respect to Article 11 and 12 of the *1997 European Convention on nationality*. See Appendix 1

8.2.1 Estonia

An application with all necessary documents has to be submitted to *Service Office of the Citizenship and Migration Bureau*, in person, by post or by e-mail.¹⁸⁵ If the application is in good order, the said authority should accept and register it and issue the certificate about the foregoing within one month from its receipt.

By the registration of the application the six months period starts to run after which an applicant has to confirm in writing that he/she still wishes to acquire Estonian citizenship (does not apply to persons who settled in Estonia before 1 July 1990). A person must fulfill this obligation within one month after the expiry of the term of six months; otherwise the proceeding of the application is terminated.

Finally, the application shall be forwarded within three months after the confirmation to the *Government of the Republic* for making a decision on granting of citizenship. There are no any fixed time periods for the decision of the Government, but according to *Vadim Poleshchuk*, the Government usually does not deliberate too long.¹⁸⁶ If a citizenship is granted a person is issued the certificate on citizenship and can apply for the ID-card and/or passport of the Estonian citizen. In case of negative decision, an applicant may file an appeal on substantive and procedural matters in court, up to the Supreme Court level. The decision of the Government shall be written, with reasoning and instructions on the right to appeal.

The application fee for an adult is 12.78 EUR (for those up to the 18 years it is free of charge) and the costs for the issuance of an ID is 24.28 EUR, what equal for total costs of 37,06 EUR. Those up to the age of 15, people with moderate, severe or profound disabilities and pensioners are charged reduced fee for ID - 6.39 EUR. There is no special regime for stateless persons.

8.2.2 Hungary

An application for citizenship shall be submitted to the *Office of Immigration and Nationality* responsible for proceeding claims for naturalization.¹⁸⁷ The said Office shall check the identity of the applicant, authenticate the signature and forward the application within five days to the *Minister of the Interior*. The Minister screens the application and if it is in good order it shall be presented within twelve months, together with his recommendation to the *President of the Republic*, who is competent to adopt the final decision. In justified cases the said time limit may be extended once by a period of additional three months. The President then either rejects the application in the form of a simple notification (*ertesites*) or, in case of positive decision, naturalization certificate (*honositasi okirat*) is issued.

Naturalization proceedings is not considered as an administrative procedure in Hungarian law, therefore the general rules and guarantees applicable to such procedures do not apply. This means that there are no procedural deadlines. In practice naturalization procedure usually takes one and a half years on an average.¹⁸⁸ In addition, decisions are not communicated in a

¹⁸⁵ § 19-21 *1995 Citizenship Act* as amended by other laws.

¹⁸⁶ *Vadim Poleshchuk* legal adviser - analyst, Legal Information Centre for Human Rights (LICHR), Tallinn (feedback on my questions)

¹⁸⁷ Section 13 Act LV of 1993 *On Hungarian Citizenship* as amended by other laws.

¹⁸⁸ UN High Commissioner for Refugees: Regional Representation for Central Europe. As cited by Hungarian Helsinki Committee: *Statelessness in Hungary: The Protection of Stateless Persons and the Prevention and Reduction of Statelessness*. p. 48

formal administrative resolution, they are not reasoned in writing and do not inform the applicant why their claim was rejected. There is neither a possibility to seek administrative or judicial review of negative decisions. It is neither not known to what extent the *Office of the President of the Republic* practices any sort of scrutiny over the decisions proposed by the *Office of Immigration and Nationality*, but general practice suggests that no such scrutiny is applied and the draft decisions are automatically endorsed by the *President of the Republic*.¹⁸⁹

Regarding application or other costs, the procedure is not subjected to additional fees.

8.2.3 Slovakia

Applications for nationality of Slovakia shall be filed in person at the district authority in the seat of a region, at a diplomatic mission or at a consular office of Slovakia.¹⁹⁰ After submission, the competent authority requests an opinion on the application from the relevant department of the *Police Forces* and forwards it with the said opinion to the *Ministry of Interior of the Slovak republic*. If required by the applicant, the authority concerned will issue a certificate on filing the application for nationality of Slovakia.

The application is then evaluated by the Ministry and submitted to the *Minister of Interior of the Slovak republic* who decides according to the conditions specified in the *Citizenship Act*. Ministry can ask the applicant also to provide other documentation if necessary. It shall also ask the *Office of Prosecutor General of the Slovak republic* for a copy of the criminal register related to the applicant and consult the *Police Forces* and if necessary also other relevant authorities. The Ministry also takes into account the public interest and security viewpoint.

The Ministry generally decides on the application within 24 months from its delivery. However, if the decision depends on the opinion of some other authority the said period does not pass from the request for the opinion until the delivery thereof to the Ministry.

If the Minister decides in favor of the applicant a deed on granting nationality of Slovakia is issued. The deed is generally delivered by the district authority in the seat of the region, diplomatic mission or consular office to the applicant after taking a vow of a national of the Slovak republic. Conferral of nationality is therefore subject to taking this vow. Children aged less than 14, persons for whom it is impossible due to their health condition and persons without legal capacity do not have to take a vow.

The proceedings is terminated if the applicant does not meet the requirements for naturalization or, upon positive decision, he/she fails to take over the deed on granting nationality within six months from the delivery of a request to do so. If the application is rejected, the applicant can file a new application no sooner than after the expiration of two years from the effective date of the decision on refusing the application for nationality.

Administrative Code governs the essentials of a decision¹⁹¹ or how a decision shall be examined.¹⁹² In this light, the decision must generally contain the verdict, its motivation and the instructions on the appeal, if all the claims were not fully accommodated.

¹⁸⁹ Hungarian Helsinki Committee: *Statelessness in Hungary: The Protection of Stateless Persons and the Prevention and Reduction of Statelessness*. p. 47-48

¹⁹⁰ § 8, 8a Act No. 40/1993 Coll. on *Nationality of the Slovak Republic* as amended by other laws.

¹⁹¹ Chapter 3 part 4 Act No. 71/1967 Coll. on *administrative proceedings (Administrative code)* as amended by other laws.

¹⁹² *Ibid.* Chapter 4

The decision of the Ministry may be appealed within the same authority within 15 days from its promulgation date.¹⁹³ The appeal shall be then settled immediately in simple matters and generally within 30 days in other cases. This decision shall be final and not subject to appeal, but if the applicant still thinks that his/her rights were violated, he/she may bring an action to the court and get the decision examined.¹⁹⁴

Finally the administrative fee for the application for naturalization is 663.50 EUR,¹⁹⁵ contrary to recognized refugees, stateless persons are not exempt from this fee.

8.2.4 Comparative analysis

Hungarian regime is rather worrisome, not only in relation to naturalization of stateless persons, because as we have seen the administrative authority (the *Office of Immigration and Nationality*) acts without any sort of control.¹⁹⁶ The regime has been therefore “widely criticized for being unreasonable, for not respecting even the elementary principles of transparency and accountability and for going against the spirit of the 1997 European Convention on Nationality.”¹⁹⁷ This rather unique character may have particularly negative impact on stateless persons in urgent need for nationality.

Neither Slovak procedure may be seen as absolutely flawless. Compared to Hungarian regime, Slovak decisions on nationality are subjected to administrative review and may be even examined by court. On the other side, the proceeding is unreasonably lengthy. The period for final decision is 24 months with a possibility for extension under circumstances stipulated by law. This makes the procedure even longer than the one in Hungary. Moreover, if the application is rejected, the law allows the person to re-apply only after two years from the effective date of the decision, what again prolongs the period for naturalization. Last but not least, the application fee of 663.50 EUR is grossly excessive. We have to bear in mind that an applicant would need to pay also other costs, e. g. translation fees or administrative fees for issuance of documents required. This may be a major obstacle for stateless persons. Just for comparison, recognized refugees are totally exempt from this fee.

In this light, the Estonian regime seems as the most favorable. The decision contains reasons in writing, it is open to judicial review, and the application fee of 37,06 EUR for an adult is not excessive, even though there is no special regime for stateless persons. The only objection could be that there is not period stipulated by law for the final decision of the Ministry. But because the practice shows that the Ministry usually does not need long time to decide, it looks that a person, under certain circumstances, could be naturalized in less than one year time from filing an application. As observed by *Vadim Poleshchuk*, the procedure is quick and there are almost no bureaucratic obstacles.

¹⁹³ Ibid. § 61

¹⁹⁴ Chapter 5, part 2 Act No. 99/1963 Coll. *Code of Civil Procedure* as amended by other laws.

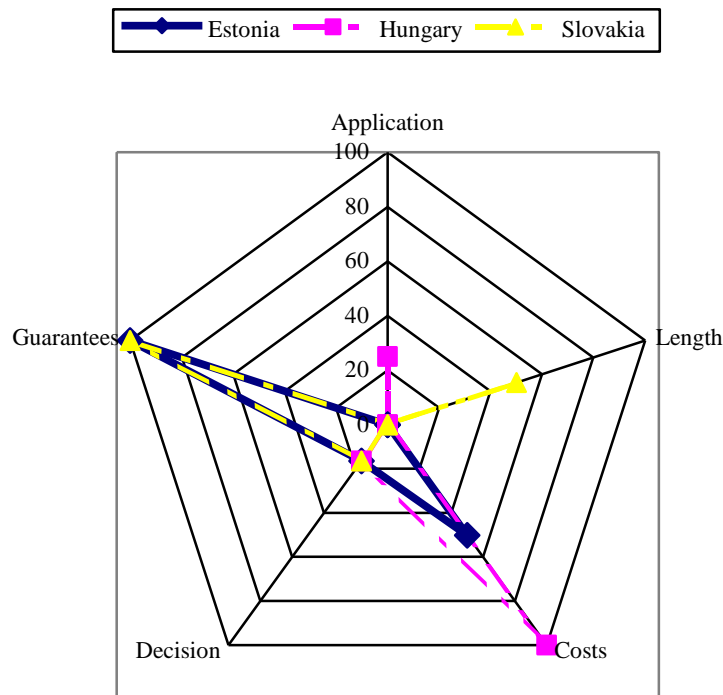
¹⁹⁵ The fee is reduced for an applicant younger than 15 years (99,50 EUR) and applicant of 15-18 years (132,50EUR0) as well as for persons living in former Czechoslovak republic (16,50EUR). The fee is waived also for persons displaced from area of Chernobyl in Ukraine.

¹⁹⁶ Hungarian Helsinki Committee: *Statelessness in Hungary: The Protection of Stateless Persons and the Prevention and Reduction of Statelessness*. p. 49

¹⁹⁷ Ibid, p. 49

8.3 Findings

In light of foregoing, we can record our findings concerning procedural aspects of naturalization into the chart as follows:¹⁹⁸



The chart clearly indicates that the most problematic aspects of Slovak naturalization procedure are application and costs incurred during the procedure. Application is a problematic aspect also for Estonian naturalization procedure together with its length, reflecting the fact that there is not period stipulated by law for the final decision. Finally, Hungary scored the lowest with regard to guarantees generally applicable to administrative procedures and again length of the procedure. However, it is interesting to note that in average, all three regimes achieved the same score (see *10.1 Overall assessments*).

9 Others areas of concern

Material and procedural aspects of naturalization are not the only aspects which should be considered when it comes to facilitated access to citizenship. As was demonstrated by Hungarian regime, the implementation of statelessness determination procedure efficiently identifying stateless persons in need may also considerably accelerate naturalization procedure.

Secondly, some of the guidelines for facilitated naturalization emphasize also the importance of assistance provided to stateless persons during the procedure. This assistance may be perceived even broader, not only as an assistance during the procedure, but also as an assistance aimed to successful integration within the national community, what is also one of the main objectives of naturalization. The same is expressed under Article 32 of the *1954 Convention*, according to which States shall *facilitate the assimilation and naturalization of*

¹⁹⁸ See also Methodology and Appendix 3

stateless persons. By facilitated assimilation is meant mainly the opportunity for stateless persons to familiarize themselves with the language, customs and way of life of the nation among whom they live, so that they may be more readily integrated in the economic, social and cultural life of particular society.¹⁹⁹ In this light, different forms of assistance shall be considered e.g. integration programs, dissemination of information about the opportunity to get naturalized and legal and other assistance provided during the procedure.

Finally, seeing the facilitated naturalization of stateless persons as a durable solution of statelessness, it is interesting to investigate whether law allows for withdrawal of status of naturalized person. The general rule in this respect is that a “*state shall not deprive a person of its nationality if such deprivation would render him stateless.*”²⁰⁰ However, some exceptions from this rule are accepted e.g. where the nationality has been obtained by misrepresentation or fraud; prolonged stay abroad or inconsistency with the duty of loyalty to the State.²⁰¹

These three aspects will be considered next.

9.1 Statelessness determination procedure

Only Hungarian law provides for separate statelessness determination procedure under which separate protection status for stateless persons may be granted. Detailed discussion of statelessness determination procedure, however, goes beyond the scope of this thesis. For our purposes it is sufficient to note that separate mechanism which would efficiently identify stateless persons in need may positively influence and accelerate also naturalization procedure. Some examples have been already mentioned. During this procedure may be for example reconciled personal status of a stateless person which then do not have to be dealt under naturalization procedure (see *8.1.2 Hungary*), or the waiting period for naturalization may be counted since an application under this procedure is filed (see *7.1.4 Comparative analysis*). In this light, states are highly encouraged to introduce this kind of procedure.

9.2 Assistance provided to stateless persons

Regarding integration programs and dissemination of information about the opportunity to get naturalized, the most interesting is definitely Estonian regime. There is ongoing information campaign about procedures and benefits of naturalization through the *Integration and Migration Foundation Our People*, which also runs corresponding hotline, organizes preparatory courses for citizenship examinations and publishes study materials to help people to apply for citizenship.²⁰² The Foundation also offers variety of Estonian language courses with an option to get their costs reimbursed via separate initiative financed through the *European Social Fund*. Previously there were also other targeted information campaigns organized by State specifically aimed e.g. at parents of stateless children (2009), at

¹⁹⁹ Grahl-Madsen, *Commentary*. p. 247 as cited by Hathaway, J. C. *The rights of refugees under international law*. p. 984

²⁰⁰ Article 8 (1) UN General Assembly, *Convention on the Reduction of Statelessness*

²⁰¹ *Ibid.* Article 8

²⁰² Vadim Poleshchuk legal adviser - analyst, Legal Information Centre for Human Rights (LICHR), Tallinn (feedback on my questions) See also <http://www.meis.ee/eng>

schoolchildren (2008), etc. Finally, assistance during the naturalization procedure is provided by the migration officials as a common practice.

On the other hand, Slovakia and Hungary do not run any campaigns or other initiatives aimed specifically to stateless persons and integration efforts are left mostly on individuals. During the naturalization procedure, in Slovakia, stateless or other applicants may receive assistance at *Migration Information Center* or at the district authority in the seat of a region where an application is filed. However, the later may be quite problematic, especially if the applicant does not speak Slovak language. In Hungary, free legal aid is not provided. Some legal counseling provides *Hungarian Helsinki Committee* and UNHCR representative may support the statelessness determination procedure.

Finally, it is important to note that dissemination of information regarding protection of stateless persons should not be confined exclusively on stateless persons, but also to authorities or other entities which may come across this vulnerable group. The lack of similar information campaigns is particularly notable in Hungary, which have separate protection status for stateless persons but there is very little knowledge about the rights guaranteed by this status. As shows the story of stateless Mariana, born as Soviet Union citizen living in Hungary, “*the most difficult thing is to find a proper and legal job [because] most employers have no idea what the status stateless means.*” This may further hinder the stateless person chances to meet the naturalization requirements.

9.3 Security of status

All three national regimes are in line with principles stated under *1961 Convention on the Reduction of Statelessness*. In this light, all three regimes allow for withdrawal of status where the nationality has been obtained by misrepresentation or fraud.²⁰³ But only Hungarian regime provides for time period for such an act. Determination of time period is from the perspective of legal certainty very positive but it is questionable whether the time period of ten years is in line with the principle of proportionality.²⁰⁴ After this time it is more than likely that person is fully integrated into national community and the possibility that he/she could be still deprived of citizenship is almost unbelievable.

In addition, Estonian nationality law allows the deprivation of nationality also in other cases e.g. in case of public service or military service for a foreign state without permission from the Government, or if a person joins the intelligence or security service of a foreign state or attempts to change the constitutional order of Estonia.²⁰⁵ This is again in line with *1961 Convention*, but on the other hand, it is important to note that neither of these provisions

²⁰³ See § 28 (4) *1995 Citizenship Act as amended by other laws*.

Section 9 Act LV of 1993 *On Hungarian Citizenship as amended by other laws*.

§ 8b Act No. 40/1993 Coll. *on Nationality of the Slovakia as amended by other laws*.

²⁰⁴ See Case C-135/08, *Janko Rottmann v. Freistaat Bayern*, which reads:

“It is ... for the national court to ascertain whether the withdrawal decision observes the principle of proportionality so far as concerns the consequences it entails for the situation of the person concerned ... when examining a decision withdrawing naturalization it is necessary ... to take into account the consequences that the decision entails for the person concerned and, if relevant, for the members of his family with regard to the loss of the rights enjoyed by every citizen of the Union, and to establish, in particular, whether that loss is justified in relation to the gravity of the offence committed by that person, to the lapse of time between the naturalization decision and the withdrawal decision and to whether it is possible for that person to recover his original nationality...”

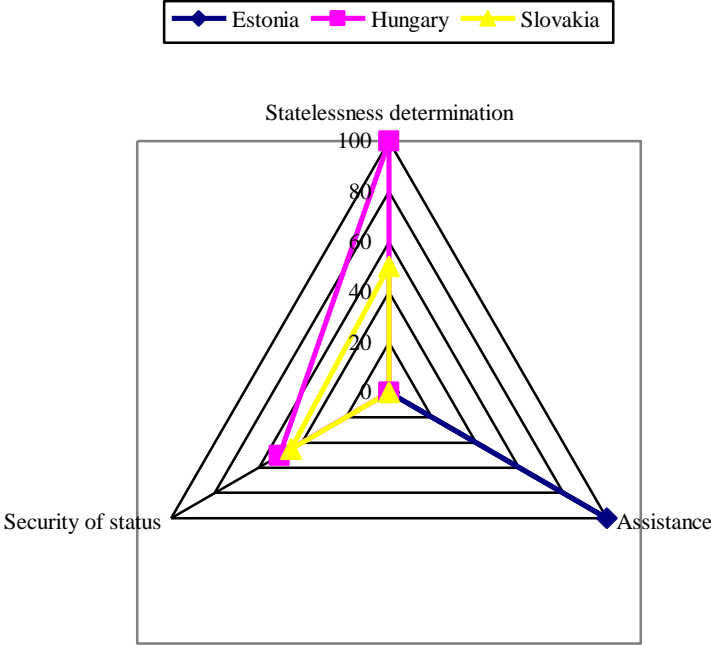
²⁰⁵ § 28 (1) (1-3) *1995 Citizenship Act as amended by other laws*.

applies to persons who acquire Estonian citizenship by birth.²⁰⁶ The said provision basically implies that citizenship by birth and citizenship by naturalization are not absolutely equal, what is against principle of non-discrimination between nationals at birth and other nationals, as articulated by *1997 European Convention on nationality*. The Estonian law neither in these situations forbids deprivation of citizenship which would amount to statelessness. This is again contrary to *1997 Convention's* principle allowing such deprivation of citizenship only if acquired by misrepresentation or other misconduct.²⁰⁷

In conclusion, it is obvious that if facilitated naturalization is supposed to be a durable solution of statelessness the option of withdrawal of status, if the person concerned would thereby becomes stateless, should follow the regime of *1997 Convention*. But even in case of acquisition of citizenship by misrepresentation or other misconduct the time period for such a withdrawal should be reasonable to not interfere with private life of an individual.

9.4 Findings

In light of foregoing, we can record our findings into the chart as follows:²⁰⁸



Here the Hungary achieved the highest score, especially because it as an only country applying statelessness determination procedure. Hungary and Slovakia, on the other hand, achieved the lowest score when it comes to assistance provided to stateless persons in form of integration programs and promotion of naturalization. Nevertheless, Estonia and Slovakia achieved the same average score when it comes to other areas of concern (see *10.1 Overall assessments*).

²⁰⁶ Ibid. § 28 (3)

²⁰⁷ Council of Europe: *1997 European Convention on Nationality, Article 5 and its Explanatory report*. para 46

²⁰⁸ See also Methodology and Appendix 3

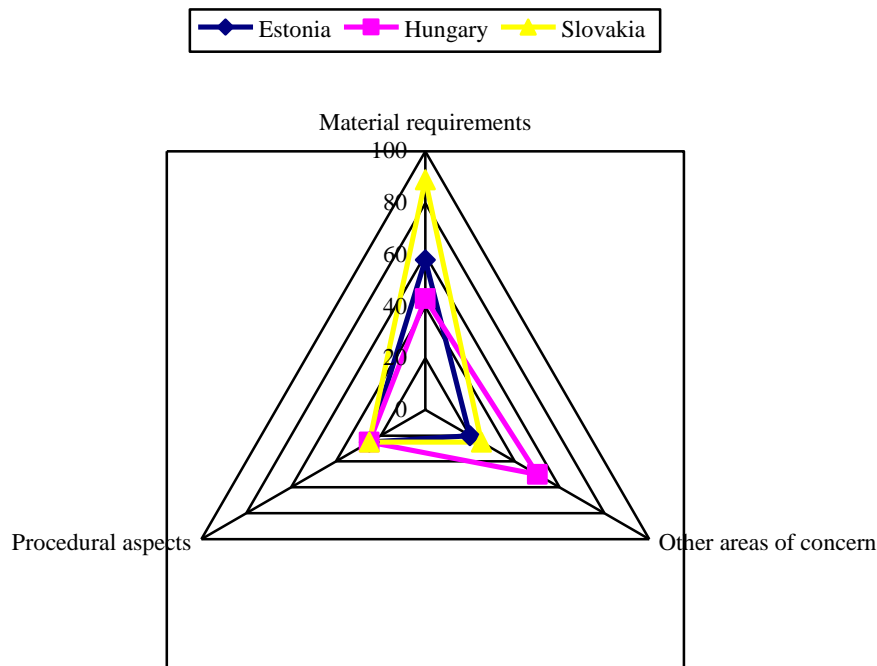
10 Solution of statelessness?

Now it is time to make the overall assessments and look at the facilitated naturalization of stateless persons from the perspective of reduction of statelessness. Here, I will consider the following: whether naturalization as implemented under particular national regimes really leads to reduction of statelessness; what are the main obstacles of its practical application and enforcement and what can motivate states to liberalize access to citizenship. Finally, I will briefly discuss in what context is facilitated naturalization the most appropriate solution and formulate recommendation with regard to issue in focus.

10.1 Overall assessment

Based on our comparative study, the overall rank and scores of the compared countries is the following: Slovakia (52.50), Estonia (43.50) and Hungary (39.00). It is particularly interesting to notice, that even though Hungarian law is *de lege lata* the most progressive when it comes to protection of stateless persons, the access to Hungarian citizenship for this vulnerable group is still substantially hampered.

Here is the overall chart reflecting naturalization of stateless persons as implemented under Estonian, Hungarian and Slovak nationality law.



10.2 Practical aspects of facilitated naturalization of stateless persons

As was already mentioned, facilitated naturalization of stateless persons, its implementation and enforcement, may be very *sensitive, difficult and highly politicized issue*. In this light, there are also other aspects which may influence its effectiveness or even feasibility as a solution of statelessness. This also means that even if facilitated naturalization is implemented in line with international and European standards, it still may not lead to fast reduction of statelessness.

Slovakia has the most favorable material requirements for naturalization, but the case law is still limited. The dysfunctional character of the Hungarian system is well-demonstrated by statistics: in 2008 for example, only three stateless persons obtained Hungarian citizenship.²⁰⁹ Naturalization rate has dropped since the early 2000s also in Estonia, after the adoption of new *Citizenship Act*, which broadened the range of naturalization requirements and abolished ethnically based privileges.²¹⁰ Estonia is since then trying to stimulate the process of naturalization more by various initiatives and integration programs than by real liberalization of naturalization requirements. These *other aspects* behind this situation will be briefly outlined next from the perspective of state and stateless individual.

10.2.1 Main obstacles: Perspective of a state

From the perspective of a state, we have to bear in mind that nationality remains an expression of state sovereignty and it is a state who decides under what conditions its nationality is acquired. We have already discussed why states should feel committed to facilitate naturalization for stateless persons but in reality such decisions may be extremely sensitive and unpopular. Firstly, migration is viewed negatively in most countries, therefore facilitated naturalization of stateless migrants can hardly become a priority of any government and secondly, *in situ* statelessness is very often linked with long history of discrimination and conflict, where any kind of compromise does not come easily.

The example of Slovakia is very interesting in this regard. The regime itself is very favorable for stateless persons but at the same time, no specific political or historical background factors may be identified behind these amendments. It was rather the lawmaker's positive approach, as well as the activities of the local UNHCR office that inspired such a progressive change. It is maybe questionable whether the approach would be the same being the number of potential applications for naturalization higher. In any way it is interesting to see how liberalized the naturalization of stateless persons can be even in a country rather ethnic orientated.

On the other hand, in Estonia historical and political factors play an important role and there is currently no political support for policy change.²¹¹ Estonian citizenship policy has been shaped to protect national identity; therefore its underlying principle is a rigid emphasis on loyalty to the Estonian state. In this light, the *Supreme Court* indicated that naturalization should be regarded as a privilege not as a fundamental right.²¹² Passing Estonian language and citizenship exams and meeting other requirements of naturalization are therefore seen as a proof of loyalty to the State making an individual worthy for Estonian citizenship.²¹³ While we do accept that citizenship is also about loyalty, the fact that loyalty as such is vague category makes it very hard to determine when it goes beyond the limits of reasonability.

²⁰⁹ UN High Commissioner for Refugees: Regional Representation for Central Europe as cited by Hungarian Helsinki Committee: *Statelessness in Hungary: The Protection of Stateless Persons and the Prevention and Reduction of Statelessness*. p. 50

²¹⁰ Poleshchuk, V.: *Chance to Survive: Minority Rights in Estonia and Latvia*. p. 24

²¹¹ The opposition *Center Party of Estonia* initiated between September 2007 and June 2008 three bills to introduce *ius soli* principle and to facilitate naturalization requirements for older people and for some other groups. None of these bills was adopted. After 2011 election there were new similar initiatives by the same party and *Social-Democrats*, again without substantial political support.

²¹² Supreme Court Administrative Chamber Judgement, October 20, 2008 case 3-3-1-42-08, published in *Riigi Teataja, III 2008* as cited by Poleshchuk, V.: *Chance to Survive: Minority Rights in Estonia and Latvia*. p. 26

²¹³ Vetik, R.: *Statelessness, citizenship and belonging in Estonia*. In Blitz, B. K., Lynch, M. *Statelessness and citizenship: a comparative study on the benefits of nationality*. p. 169

Political and historical factors therefore definitely discount potential of facilitated naturalization to be an effective solution of statelessness.

10.2.2 Main obstacles: Perspective of an individual

If we distinguish again stateless migrants and *in situ* stateless population we may observe that while in case of the former, the main obstacle to naturalization are difficulties to comply with integration requirements, in case of later the reasons for persistent statelessness are more varied. A study of stateless ethnic Russians living in Estonia offers four explanations, why there is still large stateless population. These are difficulties in learning the Estonian language and passing the citizenship test; emotional aversion to applying for citizenship stemming from feeling that they should have been treated similarly to ethnic Estonians and should have been granted citizenship automatically after the independence of Estonia was restored; some prefer Russian citizenship and lastly, lack of Estonian citizenship does not significantly affect a person's daily life.²¹⁴

This leads us to the motivation of individuals to apply for citizenship, because if the facilitated naturalization is supposed to be solution of statelessness, it does not only have to be facilitated in law but stateless persons have to feel willing and wanting to accept it. The primary purpose of this work is not to discuss benefits of citizenship, but what may citizenship bring to an individual definitely shapes his/her decision whether to go through the process of naturalization. Here we have got to relation of naturalization and integration which is somehow precarious. On one hand we have naturalization regimes requiring high level of integration, but if this is not supported by state policy, the access to citizenship for an individual remains hampered. Paradoxically, in these situations naturalization would be very often that breaking point which could enhance integration of the individual into community (example of Hungary). On the other hand, if stateless persons already feel fully integrated into national community and they are still not able to get naturalized, psychological aspects may come into play and they may feel humiliated and offended by such treatment (example of Estonia). Nationality is about *reciprocal rights and duties* and personal belief and confidence in the State are therefore also important.

These examples further demonstrate how sensible the question of citizenship is. Naturalization as a solution therefore cannot be compelled from individuals.

10.2.3 Incentives for implementation of facilitated citizenship

After we discussed the main obstacles of practical application of facilitated naturalization, it is time to look at developments which may foster the positive actions and commitment of states.

First of all accession to relevant international documents clearly demonstrates the will of states to reduce statelessness. States' efforts to comply with their obligations and recommendations and guidelines provided by international community may then motivate legislative facilitation of naturalization (example of Slovakia). By the same token, pressure from outside may push otherwise reluctant states to naturalize stateless persons or otherwise address the problem of statelessness (example of Estonia and its accession to the European Union). But the pressure should be consistent to bring a positive change. States should be

²¹⁴ Vetik, R.: *Statelessness, citizenship and belonging in Estonia*. In Blitz, Brad K.; Lynch, M. *Statelessness and citizenship: a comparative study on the benefits of nationality*. p.163

therefore motivated not only to accede to international instruments but eventually also withdrawn reservations and systematically work on their policy change.

Other arguments in favor of facilitated naturalization are internal stability and security. As *Evelyn Sepp*, a lawmaker with *Centre Party of Estonia* noted, “[F]rom the point of view of a state or a union of states, a large number of stateless persons, who have been deprived of essential political rights, represents a threat to democracy and internal stability.”²¹⁵ In addition, “denial and deprivation of citizenship and the creation of statelessness undermines the promotion of human security understood in the broadest sense as not only violent threats to individuals but also in the context of vulnerabilities caused by poverty, lack of state capacity and various forms of socio-economic and political inequity”²¹⁶

Finally, change may be initiated also from the inside of a state, whether as a tool of parties dependent on minority vote used to gain support in election (example of *Centre Party of Estonia*) or as a consequence of strong civil rights movement fighting for rights of stateless. However, the later is for now more theoretical and in practice thwarted by negative prejudice against migrants and persisting discrimination against certain minority groups.

10.3 Solution yes, but not always the best

We have seen that international community promotes the reduction of statelessness and recommends facilitating naturalization of stateless persons. On the other hand, we see how problematic the practical application and enforcement of this measure may be when historical, political and psychological aspects come into play. Our question therefore is: *Is facilitated naturalization of stateless persons an effective measure against statelessness?* Despite what was said in this part of our work we have to answer in positive way.

We do think that facilitated naturalization could be one approach to reduce statelessness and we do think it is a good one, but it always has to be considered within the context of particular society. While it may be very powerful tool where the numbers of stateless persons are relatively small, especially if supported by systematic pro integration policy of a state, it may not be the most effective measure in case of large stateless population. In this case it is not only lengthy, but very often also hampered by negative emotions on the side of potential applicants. Reduction of statelessness therefore has to be seen as a net of measures applied with regard to source of statelessness and the context of particular society. Other measures pursuing the same goal are e.g. retroactive application of standards relating to prevention of statelessness, change to law re-defining body of citizens to include stateless group or reversal of policy that caused statelessness. In other words, states have to realize the urgent need of citizenship of stateless persons, assume their international obligations and genuinely accede to policy of reduction of statelessness.

10.4 Recommendations

²¹⁵ Bill Tabled in Estonian Parliament to Coax Stateless Persons into Citizenship, TALLINN BNS IN ENGLISH, 20 Dec. 2001 (on file with author) as cited by Weissbrodt, David S., Collins, C.: *The Human Rights of Stateless Persons*. p. 276

²¹⁶ Human Security Commission 2003; Sokoloff 2005; UN General Assembly 2008; UNDP 1994 as cited by Blitz, B. K., Lynch, M.: *Statelessness and citizenship: a comparative study on the benefits of nationality*. Cheltenham [etc.]: Elgar, 2011, p 6

In light of our comparative study, states are recommended the following:

- to adopt provisions providing for stateless status determination procedure; this would efficiently identify stateless persons in need. The separate procedure reconciling the personal status of stateless persons may then accelerate the subsequent naturalization procedure. (see *8.1 Application for naturalization* and *9.1 Statelessness determination procedure*)
- to reduce period of residence not exceeding five years. If statelessness determination procedure is established, the period of residence should start to count since the submission of such application provided that the status is granted. If stateless protection status is not applied and stateless person has to establish his/her lawful residence first, states are encouraged to give stateless persons residence permit on preferential grounds. Finally, states should consider providing similar protection also to stateless persons not entering the state lawfully. (see *7.1 Residence*)
- to waive language requirements or to require only basic knowledge of language (A1 standard). If the language tests are required, states should provide pertinent assistance to individuals to help them to learn the language and to familiarize themselves with the content of tests. (see *7.2 Language and other integration requirements*)
- to waive integration requirements or to introduce them on voluntary basis. If the integration tests are applied, states should provide pertinent assistance to individuals to help them to prepare for the tests and to familiarize themselves with their content. (see *7.2 Language and other integration requirements*)
- under good character requirement to consider only crimes with sentences of imprisonment for more than 5 years and to use qualifying periods instead of absolute refusal. Examination of criminal records from other states should be done critically and there should be a possibility to grant an exception with regard to the special circumstances of the case. (see *7.3 Good character*)
- to waive economic resources requirements or to consider application of stateless persons in need with sympathy.(see *7.4 Economic resources requirements*)
- to waive requirement of loyalty as a precondition to naturalization and to exempt certain categories of applicants from the oath of allegiance if necessary (e.g. minors, incapable persons etc). (see *7.5 Loyalty to the State and security*)
- to adopt provisions applying for alternative form of evidence if some document for naturalization cannot be objectively submitted or to shift the burden of proof to the State where necessary. (see *8.1 Application for naturalization*)
- to reduce or waive costs of naturalization (including application fees, translation fees, administrative fees for issuance of required documents etc.). (see *8.2 Naturalization proceedings*)
- to accelerate the procedure and to implement legal guarantees common for administrative proceedings in democratic societies (e.g. reasoned decision, right to appeal, representation before an independent administrative authority and/or a court). (see *8.2 Naturalization proceedings*)
- if the procedure is discretionary, to consider all circumstances of the case and an impact of refusal of the application on an individual. (see *8.2 Naturalization proceedings*)

- to introduce policy aimed at integration of stateless persons, including promotion of acquisition of citizenship via naturalization. (see *9.2 Assistance provided to stateless persons*)
- to limit the possibility of status withdrawal only to fraud or other misconduct during the acquisition of citizenship in line with principle of proportionality regarding the time limit of such withdrawal. (see *9.3 Security of status*)

Conclusion

In conclusion we can say, that the obligation to protect stateless persons and to reduce statelessness may be derived not only from international instruments dealing explicitly with this issue but indirectly also from human rights law. Right to nationality together with obligation to avoid statelessness and prohibition of arbitrary deprivation of citizenship consequently make the obligation to facilitate access to citizenship stronger. On the other hand, we are aware that this commitment still does not guarantee the right to be naturalized, only an opportunity of facilitated naturalization which is left within the discretion of the State. But the above principles together with principles of non-discrimination and doctrine of rule of law limit the states' powers with regard to attribution of nationality as well as naturalization. International law provides only patchy guidelines when it comes to facilitated naturalization of stateless persons, which I tried to determine based on the findings of my comparative study.

Comparing Estonian, Hungarian and Slovak nationality law, we can conclude that Slovakia has the most favorable regime when it comes to naturalization of stateless persons, but the measure should be applied in context of complex policy aimed at integration of stateless persons to be effective. The same may be concluded about Hungarian regime, which is *de lege lata* very progressive when it comes to protection of stateless persons, but it fails in practice. Finally, Estonian regime does not explicitly provide for facilitated naturalization of stateless persons, but at least stimulates the process by different integration programs and campaigns promoting acquisition of nationality. In this light, we have observed that all three regimes have their positive elements, combination of which has the potential to create very powerful tool against statelessness.

However, we have to bear in mind that the practical application and enforcement of facilitated naturalization of stateless persons may be further influenced by political, historical and psychological aspects. Therefore, it may not always be the most effective solution and other option should be considered with regard to source of statelessness and the context of particular society. Nevertheless, I do think that facilitated naturalization could be one approach to reduce statelessness and it can be a good one especially if applied as a part of complex policy of reduction of statelessness, in accordance with standards as discussed in this work.

Bibliography

Books

1. Blitz, B. K., Lynch, M.: *Statelessness and citizenship: a comparative study on the benefits of nationality*. Cheltenham [etc.]: Elgar, 2011, 258 p
2. Van Waas, L.: *Nationality matters: Statelessness under international law*. Antwerp: Intersentia, 2008, 504 p
3. Hathaway, J. C.: *The rights of refugees under international law*. Cambridge [etc.]: Cambridge University Press, 2005, 1184 p

Articles

4. Batchelor, C. A.: *Stateless Persons: Some Gaps in International Protection*. International Journal of Refugee Law 7, no. 2 (1995), p. 232-259
5. Batchelor, C. A.: *Statelessness and the Problem of Resolving Nationality Status*. International Journal of Refugee Law 10, no. 1/2 (1998), pp. 156-183
6. Batchelor, C. A.: *Transforming International Legal Principles into National Law: The Right to a Nationality and the Avoidance of Statelessness*. in *Refugee Survey Quarterly*, Vol. 25, 2006
7. Bauböck, R.: *Transnational Citizenship. Membership and Rights in International Migration*, Edward Elgar, Cheltenham: 2002
8. Chan, J.: *The Right to a Nationality as a Human Right - The Current Trend Towards Recognition*. In: *Human Rights Law Journal*, Vol. 12, 1991
9. Donner, R.: *The Regulation of Nationality in International Law*, Transnational Publishers, New York: 1994
10. Edward A.: *Ethnic and civic dealings with newcomers: naturalization policies and practices in twenty-six immigration countries*. *Ethnic and Racial Studies*, 34:11, (2011) 1974-1994
11. Goldston, J. A.: *Holes in the Rights Framework: Racial Discrimination, Citizenship, and the Rights of Noncitizens*. *Ethics and International Affairs* 20 (3), (2006) 321–347
12. Hegedus, E.: *Navigating the unknown – life as a stateless person in Budapest*. Accessible via <http://www.unhcr-centraleurope.org/en/news/2011/navigating-the-unknown-life-as-a-stateless-person-in-budapest.html>
13. Jarve, P.: *Estonian citizenship: Between ethnic preferences and democratic obligations*. available at <http://www.law.ed.ac.uk/citmodes/files/estonia.pdf> [accessed 30 May 2012]
14. Sawyer, C.: *Statelessness in the European Union: displaced, undocumented, unwanted*. Cambridge [etc.]: Cambridge University Press, 2011, 345 p
15. Van Waas, L.: *Statelessness: A 21st century challenge for Europe*. *Security and human rights*, vol.20 (2009) nr. 2 p. 133-146
16. Weissbrodt, David S., Collins, C.: *The Human Rights of Stateless Persons*. *Human Rights Quarterly* 28, no. 1 (2006), pp. 245-276.
17. Walker, S. G.: *From refugees to citizen? Obstacles to the naturalization of refugees in Uganda*. available at: http://www.refugeelawproject.org/briefing_papers/Naturalisation_Of_Refugees.pdf
18. Thiele, C.: *The Criterion of Citizenship for Minorities: The Example of Estonia*. ECMI working paper. 1999

International and European legal documents

19. Council of Europe: Committee of Ministers, *Recommendation R (1999) 18 of the Committee of Ministers to Member States on the Avoidance and Reduction of Statelessness*, 15 September 1999, (1999) 18, available at: <http://www.unhcr.org/refworld/docid/3ae6b3964.html> [accessed 30 May 2012]

20. Council of Europe: *Convention on the Avoidance of Statelessness in Relation to State Succession*, 15 March 2006, CETS 200, available at: <http://www.unhcr.org/refworld/docid/4444c8584.html> [accessed 30 May 2012]
21. Council of Europe: *European Convention on Nationality*, 6 November 1997, ETS 166 and its *Explanatory report* available at: <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=166&CL=ENG>
22. Council of Europe: Consultative Assembly of the Council of Europe, *Recommendation 564 (1969) on the Acquisition by Refugees of the Nationality of their Country of Residence*, 30 Sept. 1969.
23. *The refugee convention, 1951*. The travaux preparatoires analyzed with a commentary by Dr Paul Weis. Article 34 Naturalization
24. UN Ad Hoc Committee on Refugees and Stateless Persons: *A Study of Statelessness, United Nations, August 1949, Lake Success - New York*, 1 August 1949, E/1112; E/1112/Add.1, available at: <http://www.unhcr.org/refworld/docid/3ae68c2d0.html> [accessed 30 May 2012]
25. UN General Assembly: *Convention Relating to the Status of Stateless Persons*, 28 September 1954, United Nations, Treaty Series, vol. 360, p. 117, available at: <http://www.unhcr.org/refworld/docid/3ae6b3840.html> [accessed 30 May 2012]
26. UN General Assembly: *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175, available at: <http://www.unhcr.org/refworld/docid/3ae6b39620.html> [accessed 30 May 2012]
27. UN High Commissioner for Refugees: *Borders, Citizenship and Immigration Bill. Parliamentary Briefing*. House of Lords Second Reading available at: http://www.unhcr.org.uk/fileadmin/user_upload/pdf/BCI_Bill_Lords_Second_Reading_Brief.pdf
28. UN High Commissioner for Refugees, *Convention relating to the Status of Stateless Persons. Its History and Interpretation*, 1997, available at: <http://www.unhcr.org/refworld/docid/4785f03d2.html> [accessed 30 May 2012]
29. UN High Commissioner for Refugees: *Guidelines: Field Office Activities Concerning Statelessness*, Field-Office Memorandum No.70/98, 28 September 1998
30. UN High Commissioner for Refugees: *Expert Meeting - Statelessness Determination Procedures and the Status of Stateless Persons (Summary Conclusions)*, December 2010, available at: <http://www.unhcr.org/refworld/docid/4d9022762.html> [accessed 30 May 2012]
31. UN High Commissioner for Refugees: *Interpreting the 1961 Statelessness Convention and Preventing Statelessness among Children: Summary Conclusions*, September 2011, available at: <http://www.unhcr.org/refworld/docid/4e8423a72.html> [accessed 30 May 2012]
32. UN High Commissioner for Refugees: *Nationality and Statelessness: A Handbook for Parliamentarians*, 20 October 2005, available at: <http://www.unhcr.org/refworld/docid/436608b24.html> [accessed 30 May 2012]
33. UN High Commissioner for Refugees: *Preliminary Report Concerning the Questionnaire on Statelessness Pursuant to the Agenda for Protection. Steps taken by States to Reduce Statelessness and to Meet the Protection Needs of Stateless Persons*, September 2003, available at: <http://www.unhcr.org/refworld/docid/402b5af94.html> [accessed 30 May 2012]
34. UN High Commissioner for Refugees: *Preventing and Reducing Statelessness: The 1961 Convention on the Reduction of Statelessness*, September 2010, available at: <http://www.unhcr.org/refworld/docid/4cad866e2.html> [accessed 30 May 2012]
35. UN High Commissioner for Refugees: *Statelessness: An Analytical Framework for Prevention, Reduction and Protection*, 2008, available at: <http://www.unhcr.org/refworld/docid/49a28afb2.html> [accessed 30 May 2012]
36. UN High Commissioner for Refugees: *Statelessness: Prevention and Reduction of Statelessness and Protection of Stateless Persons*, 14 February 2006, EC/57/SC/CRP.6, available at: <http://www.unhcr.org/refworld/docid/4a54bbdbd.html> [accessed 30 May 2012]

37. UN High Commissioner for Refugees: *The 1954 Convention relating to the Status of Stateless Persons: Implementation within the European Union Member States and Recommendations for Harmonization*, October 2003, available at: <http://www.unhcr.org/refworld/docid/415c3cfb4.html> [accessed 30 May 2012]
38. UN High Commissioner for Refugees: *UNHCR Action to Address Statelessness: A Strategy Note*, March 2010, available at: <http://www.unhcr.org/refworld/docid/4b9e0c3d2.html> [accessed 30 May 2012]
39. UN Secretary-General (UNSG): *Guidance Note of the Secretary General: The United Nations and Statelessness*, June 2011, available at: <http://www.unhcr.org/refworld/docid/4e11d5092.html> [accessed 30 May 2012]

Reports

40. Committee of Experts on Nationality: *Report on Conditions for the Acquisition and Loss of Nationality*, Strasbourg: 14 January 2003, page 12.
41. The Equal rights trust: *Unravelling Anomaly - Detention, Discrimination and the Protection Needs of Stateless Persons*. London, 2010
42. Jarve, P., Poleshchuk, V.: *Country Report: Estonia*. EUDO Citizenship Observatory. 2010 available via <http://eudo-citizenship.eu/country-profiles/?country=Estonia>
43. Hungarian Helsinki Committee: *Forgotten Without Reason: Protection of Non-Refugee Stateless Persons in Central Europe*, June 2007, available at: <http://www.unhcr.org/refworld/docid/497475802.html> [accessed 30 May 2012]
44. Hungarian Helsinki Committee: *Statelessness in Hungary: The Protection of Stateless Persons and the Prevention and Reduction of Statelessness*, December 2010, available at: <http://www.unhcr.org/refworld/docid/4d6d26972.html> [accessed 30 May 2012]
45. Kovacs, M., Toth, J.: *Country Report: Hungary*. EUDO Citizenship Observatory. 2010 available via <http://eudo-citizenship.eu/country-profiles/?country=Hungary>
46. *MIPEX 2010 Indicators* accessible via <http://www.mipex.eu/methodology>
47. Poleshchuk, V.: *Advice not welcomed. Recommendations of the OSCE High Commissioner to Estonia and Latvia and the response*. Munster: Lit, 2001
48. Poleshchuk, V.: *Chance to Survive: Minority Rights in Estonia and Latvia*. Legal Information Centre for Human Rights (Estonia), Latvian Human Rights Committee. Foundation for Historical Outlook. 2009
49. Poleshchuk, V.: *Non-citizenship in Estonia. Report*. Tallinn: Legal information centre for human rights, 2004
50. Refugees International: *Lives on Hold: the Human Cost of Statelessness*, February 2005, available at: <http://www.unhcr.org/refworld/docid/47a6eba00.html> [accessed 30 May 2012]
51. Refugees International: *Nationality Rights for All: A Progress Report and Global Survey on Statelessness*, 11 March 2009, available at: <http://www.unhcr.org/refworld/docid/49be193f2.html> [accessed 30 May 2012]
52. Refugee Studies Centre: *Forced Migration Review No. 32*, April 2010, Issue 32, available at: <http://www.unhcr.org/refworld/docid/4c6cefb02.html> [accessed 30 May 2012]
53. Refugee Studies Centre: *Statelessness, protection and equality*, September 2009, available at: <http://www.unhcr.org/refworld/docid/4e5f3d572.html> [accessed 30 May 2012]

Case law

54. Human Rights Committee: *Individual complaint of Capena v. Canada*, case number 558/1993, A/52/40, vol. II, Geneva: 3 April 1997

55. Permanent Court of International Justice: *Tunis and Morocco Nationality Decrees case*, 1923
56. International Court of Justice: *Nottebohm Case (Liechtenstein v. Guatemala)*, 1953
57. Inter-American Court of Human Rights: *Advisory Opinion on the Proposed Amendments to the Naturalization provision of the Constitution of Costa Rica*, OC-4/84, 19 January 1984
58. Inter-American Court on Human Rights: *Yean and Bosico v. Dominican Republic*, Series C, Case 130, 8 September 2005
59. Inter-American Court on Human Rights: *Case of the Girls Yean and Bosico v. Dominican Republic – Monitoring Compliance with the Judgment*, Order of 28 November 2007
60. UN Human Rights Committee: *Vjatseslav Borzov v. Estonia*. CCPR/C/81/D/1136/2002. 25 August 2004
61. Council of Europe: *Andrejeva v. Latvia* Application no. 55707/00, European Court of Human Rights, 18 February 2009
62. Estonian Supreme Court, General Assembly judgment, January 3, 2008, case 3-3-1-101-06, published in *Riigi Teataja*, III 2008, no. 3, para. 5. English translation available at <http://www.nc.ee/?id=889>
63. German Federal Administrative Court BVerwG 5 C 20.05, summary available via <http://eudo-citizenship.eu/citizenship-case-law/?search=1&name=&year=&country=Germany&national=1>
64. German Federal Administrative Court BVerwG 5 C 22.08, summary <http://eudo-citizenship.eu/citizenship-case-law/?search=1&name=&year=&country=Germany&national=1>
65. European Court of Justice: Case C-135/08, *Janko Rottmann v. Freistaat Bayern*, Judgment of the Court (Grand Chamber) of 2 March 2010

National legislation

Estonia

66. 2010 *Aliens Act as amended by other laws accessible via* <http://www.legaltext.ee/et/andmebaas/ava.asp?m=022>

67. 1995 *Citizenship Act as amended by other laws. accessible via* <http://www.legaltext.ee/et/andmebaas/ava.asp?m=022>

Hungary

68. Act XXXIX of 2001 *on the Entry and Stay of Foreigners* as amended by other laws. accessible via <http://www.bmbah.hu/jogszabalyok.php>

69. Government Decree No. 170/2001 (IX.26.) on the implementation of Act XXXIX of 2001 on the Entry and Stay of Foreigners accessible via <http://www.bmbah.hu/jogszabalyok.php>

70. Act LV of 1993 *On Hungarian Citizenship* as amended by other laws. accessible via <http://www.bmbah.hu/jogszabalyok.php>

71. Government Decree No. 125/1993 (IX.22) On the Execution of Act LV of 1993 on Hungarian Citizenship accessible via <http://www.bmbah.hu/jogszabalyok.php>

Slovakia

72. Act No. 40/1993 Coll. *on Nationality of the Slovakia* as amended by other laws. available at <http://eudo-citizenship.eu/country-profiles/?country=Slovakia> [accessed 29 May 2012]

73. Act No. 404/2011 Coll. *on Residence of Foreign Nationals* as amended by other laws.

74. Act No. 71/1967 Coll. *on administrative proceedings (Administrative code)* as amended by other laws.

75. Act No. 99/1963 Coll. *Code of Civil Procedure* as amended by other laws.

URL sources

<http://www.unhcr.org/pages/49c3646c155.html>

<http://www.indexmundi.com/>

<http://www.mipex.eu/>

http://www.bmbah.hu/a_bah_ismertetese.php

<http://www.ekk.edu.ee/>

<http://www.politsei.ee/en/>

<http://mic.iom.sk/en.html>

Appendix 1

Participation of Estonia, Hungary and Slovakia in relevant international documents

	Treaty	Organization	Participation of Estonia	Participation of Hungary	Participation of Slovakia
1	1930 Convention on Certain Questions relating to the Conflict of Nationality Laws	League of Nations	Signed	Signed	Signed
2	1951 Convention relating to the status of refugees	UNO	Accession in 1997	Accession in 1989	Succession in 1993
3	1954 Convention relating to the Status of Stateless Persons	UNO	Not signed	Accession in 2000	Accession in 2000
4	1957 Convention on the Nationality of Married Women	UNO	Not signed	Ratified in 1959	Succession in 1993
5	1961 Convention on the Reduction of Statelessness	UNO	Not signed	Accession in 2009	Accession in 2000
6	1965 Convention on the Elimination of All Forms of Racial Discrimination	UNO	Accession in 1991	Accession in 1967	Succession in 1993
7	1966 International Covenant on Civil and Political Rights	UNO	Accession in 1991	Accession in 1974	Succession in 1993
8	1966 International Covenant on Economic, Social and Cultural Rights	UNO	Accession in 1991	Accession in 1974	Succession in 1993
9	1979 Convention on the Elimination of All Forms of Discrimination against Women	UNO	Accession in 1991	Accession in 1980	Succession in 1993
10	1989 Convention on the Rights of the Child	UNO	Accession in 1991	Ratified in 1991	Succession in 1993
11	1990 Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	UNO	Not signed	Not signed	Not signed
12	1997 European Convention on Nationality	CoE	Not signed	Ratified in 2001 ²¹⁷	Ratified in 1998
13	2006 Convention on the Rights of Persons with Disabilities	UNO	Signed in 2007	Ratified in 2007	Ratified in 2010
14	2006 Convention on the Avoidance of Statelessness in relation to State Succession	CoE	Not signed	Ratified in 2009	Not signed

²¹⁷ For our purposes is important to note that Hungary made the following reservations:

With respect to *Article 11*, it declared to retain the right not to apply, in accordance with the Hungarian law in force, the rule that decisions relating to the acquisition of nationality contain reasons in writing; and with respect to *Article 12*, it declared to retain the right not to apply, in accordance with the Hungarian law in force, the rule that decisions relating to the acquisition of nationality be open to an administrative or judicial review. See <http://conventions.coe.int/Treaty/Commun/ListeDeclarations.asp?NT=166&CM=&DF=&CL=ENG&VL=1>

Appendix 2

Stateless Persons in Europe²¹⁸

Country of residence	Description/origin	Population @ Start of 2009	Population @ End of 2009
Austria	Stateless	464	523
Azerbaijan	Stateless	2,078	2,078
Belarus	Stateless	7,818	7,799
Belgium	Stateless	557	637
Bosnia & Herzegovina	Citizens of former Yugoslavia	10,000	9,688
Croatia	Stateless	180	237
Denmark	Stateless	3,687	3,263
Estonia	Stateless	110,315	104,813
Finland	Stateless	1,397	2,407
France	Stateless	1,006	1,078
Georgia	Stateless	1,544	1,677
Germany	Stateless	9,322	8,226
Greece	Stateless	258	260
Hungary	Stateless	30	49
Iceland	Stateless	116	133
Italy	Stateless	722	793
Kazakhstan	Stateless	7,602	7,649
Latvia	Stateless	266	168
Latvia	Non-citizens	365,151	344,095
Liechtenstein	Stateless	6	6
Lithuania	Stateless	5,900	3,902
Luxembourg	Stateless	162	177
Macedonia	Long-term habitual residents without effective citizenship and Roma at risk of becoming stateless/with documentation gaps	1,051	1,911
Moldova	Stateless	1,805	2,014
Montenegro	Citizens of former Yugoslavia	1,500	1,500
Netherlands	Stateless	4,591	5,034
Norway	Stateless	1,788	2,860
Poland	Stateless	839	865
Portugal	Stateless	273	31
Romania	Stateless	253	306
Russia	Meskhethians	1,200	300
Russia	Stateless	48,800	49,700
Serbia	Citizens of former Yugoslavia	17,000	16,700
Slovakia	Stateless	911	911

²¹⁸ "Stateless Persons" XLS SHEET/ZIPED - United Nations High Commissioner for Refugees (UNHCR). These are the 2009 yearly statistics for stateless people. Countries, for which UNHCR has information about stateless persons, but with no reliable data, have been marked with an asterisk (*). *This complete dataset was last updated by UN data on June.15.2010 & last retrieved by BlatantWorld.com on October.17.2010.* Available at http://www.blatantworld.com/feature/europe/stateless_persons.html#data_copyright

Slovenia	Citizens of former Yugoslavia	4,090	4,090
Spain	Stateless	26	28
Sweden	Stateless	6,239	7,758
Switzerland	Stateless	75	67
Turkey	Stateless	2,739	2,739
Ukraine	Formerly deported persons in Crimea, Ukraine	3,500	4,500
Ukraine	Stateless	52,850	52,000
United Kingdom	Stateless	205	205
Confirmed Total		678,316	653,18

Appendix 3

Indicators for assessment of facilitated naturalization for stateless persons are based on MIPEX 2010 INDICATORS (available at <http://www.mipex.eu/indicators>). These indicators were elaborated for assessment of access to nationality in general and I adjusted them for purposes of this study according to analysis provided under Part 2 of this thesis (amendments are in bold cursive). Subsequently the following chart is filled in to reflect separately each of three national regimes.

FACILITATED NATURALIZATION FOR STATELESS PERSONS				
I. MATERIAL REQUIREMENTS		100	50	0
1a	Residence Note: Residence is defined as the whole period of lawful and habitual stay since entry. For instance, if the requirement is 5 years with a permanent residence, which itself can only be obtained after 5 years' residence, please select <i>After ≥ 10 years</i>	<i>After ≤ 5 years of total residence</i>	<i>After > 5 < 10 years of total residence</i>	<i>After ≥ 10 years of total residence</i>
1b	<i>Lawful and habitual residence (consider in light of naturalization requirements of a particular state. For instance, if the requirement is 5 years with a permanent residence, consider requirements for permanent residence)</i>	<i>It is established under preferential terms for stateless persons</i>	<i>It is established under general conditions with a possibility to decide with regard to special circumstances of the case</i>	<i>It is established under general conditions</i>
1c	Periods of absence allowed previous to acquisition of nationality	<i>Longer periods</i>	<i>Up to 10 non-consecutive months and/or 6 consecutive months</i>	<i>Shorter periods (includes uninterrupted residence or where absence not regulated by law and left to administrative discretion)</i>
2a	Language requirement Note: Can be test, interview, completion of course, or other forms of assessments.	<i>No assessment OR A1 or less set as standard</i>	<i>A2 set as standard</i>	<i>B1 or higher set as standard OR no standards, based on administrative discretion.</i>

2b	Language requirement exemptions (Blank if no assessment) a. Takes into account individual abilities ex. educational qualifications b. Exemptions for vulnerable groups ex. age, illiteracy, mental/physical disability	<i>Both of these</i>	<i>One of these</i>	<i>Neither of these</i>
2c	Conductor of language requirement (if no measure, leave blank) a. Language-learning specialists b. Independent of government (ex. not part of a government department)	<i>a and b, ex. language institutes</i>	<i>a but not b, ex. language unit in government</i>	<i>Neither a nor b, ex. police, foreigners' service, general consultant</i>
2d	Cost of language requirement (Blank if no assessment)	<i>No or nominal costs</i>	<i>Normal costs ex. If provided by state, same as regular administrative fees. If provided by private sector, same as market price</i>	<i>Higher costs</i>
2e	Support to pass language requirement (if no measure, leave blank) a. Assessment based on publicly available list of questions or study guide b. Assessment based on publicly available course	<i>a and b</i>	<i>a or b</i>	<i>Neither a nor b</i>
2f	Cost of language support (Blank if no language assessment or support)	<i>No or nominal costs or possibility to apply for compensation of costs</i>	<i>Normal costs ex. If provided by state, same as regular administrative fees. If provided by private sector, same as market price</i>	<i>Higher costs</i>
3a	Citizenship/integration requirement Note: Can be test, interview, or other forms of assessments.	<i>No Requirement OR Voluntary course/information</i>	<i>Requirement to take an integration course</i>	<i>Requirement includes integration test/assessment</i>

3b	Citizenship/integration requirement exemptions (Blank if no assessment) a. Takes into account individual abilities ex. educational qualifications b. Exemptions for vulnerable groups ex. age, illiteracy, mental/physical disability	<i>Both of these</i>	<i>One of these</i>	<i>Neither of these</i>
3c	Conductor of citizenship/integration requirement (if no measure, leave blank) a. Education specialists b. Independent of government (ex. not part of a government department)	<i>a and b, ex. educational institutes</i>	<i>a but not b, ex. citizenship/integration unit in government</i>	<i>Neither a nor b, ex. police, foreigners' service, general consultant</i>
4d	Cost of citizenship/integration requirement (Blank if no assessment)	<i>No or nominal costs</i>	<i>Normal costs ex. If provided by state, same as regular administrative fees. If provided by private sector, same as market price</i>	<i>Higher costs</i>
3e	Support to pass citizenship/integration requirement (if no assessment, leave blank) a. Assessment based on publicly available list of questions or study guide b. Assessment based on publicly available course	<i>a and b</i>	<i>a or b</i>	<i>Neither a nor b</i>
3f	Cost of citizenship/integration support(Blank if no assessment)	<i>No or nominal costs</i>	<i>Normal costs ex. If provided by state, same as regular administrative fees. If provided by private sector, same as market price</i>	<i>Higher costs</i>
4a	Criminal record requirement Note: Ground for rejection or application	<i>Crimes with sentences of imprisonment for ≥ 5 years</i>	<i>Crimes with sentences of imprisonment for < 5 years</i>	<i>For other offences (ex. misdemeanors, minor</i>

	of a qualifying period (not rejection, but longer residence period)	<i>OR Use of qualifying period instead of refusal</i>		<i>offenses, pending criminal procedure)</i>
4b	Good character' clause (different from criminal record requirement)	<i>None</i>	<i>A basic good character required (commonly used, i.e. also for nationals)</i>	<i>Higher good character requirement (i.e. than for nationals) or vague definition</i>
5	Economic resources requirement	<i>None</i>	<i>Minimum income (ex. acknowledged level of poverty threshold)</i>	<i>Additional requirements (ex. employment, stable and sufficient resources, higher levels of income)</i>
6	<i>Loyalty requirement</i> <i>Note: Here we are looking just for separate precondition of loyalty to the State as a requirement for naturalization excluding oath of allegiance</i>	<i>None</i>	<i>Requirement of loyalty, clearly defined and//or with specific regime of exceptions e.g. for stateless persons</i>	<i>Requirement of loyalty without clear definition and /or applied regardless special circumstances of the applicant</i>
II. PROCEDURAL ASPECTS				
7a	<i>Application</i> <i>a) nationality law provides for alternative form of evidence if some document cannot be objectively submitted</i> <i>b) if some document cannot be objectively submitted burden of proof shifts to the State</i>	<i>a and b</i>	<i>a or b</i>	<i>Neither a nor b</i>
7b	<i>Language of application and of other documents required</i>	<i>All documents may be submitted in one of the official languages of the state or in given languages; state provides assistance with the translation and/or translation costs are</i>	<i>All documents have to be submitted in one of the official languages of the state; translation costs may be withdrawn</i>	<i>All documents have to be submitted in one of the official languages of the state; translation and translation costs are borne by the applicant</i>

		<i>withdrawn</i>		
8a	Maximum length of application procedure	≤ 6 months	> 6 months but the maximum is defined by law	No regulation on maximum length
8b	Costs of procedure (consider e.g. application fee, costs for issuance of nationality title or required documents etc.)	No or nominal costs	Normal costs ex. same as regular administrative fees	Higher costs
8c	Additional grounds for refusing status: a. Proven fraud (ex. provision of false information) in the acquisition of citizenship b. Actual and serious threat to public policy or national security.	No other than a	No other than a-b	Other than a-b
8d	Discretionary powers in refusal	Explicit entitlement for applicants that meet the conditions and grounds in law	Discretion only on limited elements	Discretionary procedure
8e	Before refusal, due account is taken of (regulated by law): a. personal behavior of resident b. age of resident, c. duration of residence and holding of nationality, d. consequences for both the resident and his or her family, e. existing links to the Member State concerned f. (non-)existing links to the resident's country of origin (including problems of re-entry for political or citizenship	All elements	At least b, c, d, e and f	One or more of b, c, d, e or f are not taken into account

	reasons), and g. alternative measures (downgrading to residence permit etc.)			
8f	Legal guarantees and redress in case of refusal: a. reasoned decision b. right to appeal c. representation before an independent administrative authority and/or a court	<i>All guarantees</i>	<i>At least a and b</i>	<i>One or both of a and b are not guaranteed</i>
III. OTHER AREAS OF CONCERN				
9	<i>Stateless status determination</i>	<i>Law provides for separate statelessness determination mechanism which efficiently identifies stateless persons in need of protection</i>	<i>Law provides only for statelessness determination if the need appears under other proceedings</i>	<i>Law does not provide whatsoever how to proceed if a person claims to be stateless</i>
10	<i>Assistance provided to stateless persons</i> <i>a) There is a policy in place aimed at integration of stateless persons including promotion of acquisition of citizenship via naturalization</i> <i>b) Stateless persons applying for naturalization are provided with systematic assistance and support (here we are interested in assistance in its broader sense, going beyond representation before an independent administrative authority and/or a court as stated under 12e(c))</i> <i>c) All above services are free of charge</i>	<i>All elements</i>	<i>a or b in combination with c</i>	<i>Neither a, b or c</i>

<i>Security of status</i>				
11 a	Grounds for withdrawing status: a. Proven fraud (ex. provision of false information) in the acquisition of citizenship b. Actual and serious threat to public policy or national security.	<i>No other than a</i>	<i>No other than a-b</i>	<i>Other than a-b</i>
11 b	Time limits for withdrawal (including other means of ceasing nationality by authority's decision)	<i>≤ 5 years after acquisition</i>	<i>> 5 years after acquisition</i>	<i>No time limits in law</i>
11 c	Withdrawal (including other means of ceasing nationality by authority's decision) that would lead to statelessness	<i>Explicitly prohibited in law</i>	<i>Discretionary, Taken into account in decision</i>	<i>Not addressed in law</i>

I. ESTONIA (overall score 43,50)

FACILITATED NATURALIZATION FOR STATELESS PERSONS				
<i>I. MATERIAL REQUIREMENTS</i>		<i>100</i>	<i>50</i>	<i>0</i>
1a	Residence Note: <i>Residence</i> is defined as the whole period of lawful and habitual stay since entry. For instance, if the requirement is 5 years with a permanent residence, which itself can only be obtained after 5 years' residence, please select <i>After ≥ 10 years</i>	<i>After ≤ 5 years of total residence</i>	<i>After > 5 < 10 years of total residence</i>	<i>After ≥ 10 years of total residence</i>
1b	<i>Lawful and habitual residence (consider in light of naturalization requirements of a particular state. For instance, if the requirement is 5 years with a permanent</i>	<i>It is established under preferential terms for stateless persons</i>	<i>It is established under general conditions with a possibility to decide with regard to special</i>	<i>It is established under general conditions</i>

	<i>residence, consider requirements for permanent residence)</i>		<i>circumstances of the case</i>	
1c	Periods of absence allowed previous to acquisition of nationality	<i>Longer periods</i>	<i>Up to 10 non-consecutive months and/or 6 consecutive months</i>	<i>Shorter periods (includes uninterrupted residence or where absence not regulated by law and left to administrative discretion)</i>
2a	Language requirement Note: Can be test, interview, completion of course, or other forms of assessments.	<i>No assessment OR A1 or less set as standard</i>	<i>A2 set as standard</i>	<i>B1 or higher set as standard OR no standards, based on administrative discretion.</i>
2b	Language requirement exemptions (Blank if no assessment) a. Takes into account individual abilities ex. educational qualifications b. Exemptions for vulnerable groups ex. age, illiteracy, mental/physical disability	<i>Both of these</i>	<i>One of these</i>	<i>Neither of these</i>
2c	Conductor of language (if no measure, leave blank) a. Language-learning specialists b. Independent of government (ex. not part of a government department)	<i>a and b, ex. language institutes</i>	<i>a but not b, ex. language unit in government</i>	<i>Neither a nor b, ex. police, foreigners' service, general consultant</i>
2d	Cost of language requirement (Blank if no assessment)	<i>No or nominal costs</i>	<i>Normal costs ex. If provided by state, same as regular administrative fees. If provided by private sector, same as market price</i>	<i>Higher costs</i>
2e	Support to pass language requirement (if no measure, leave blank) a. Assessment based on publicly available list of questions or study guide	<i>a and b</i>	<i>a or b</i>	<i>Neither a nor b</i>

	b. Assessment based on publicly available course			
2f	Cost of language support (Blank if no language assessment or support)	<i>No or nominal costs or possibility to apply for compensation of costs</i>	<i>Normal costs ex. If provided by state, same as regular administrative fees. If provided by private sector, same as market price</i>	<i>Higher costs</i>
3a	Citizenship/integration requirement Note: Can be test, interview, or other forms of assessments.	<i>No Requirement OR Voluntary course/information</i>	<i>Requirement to take an integration course</i>	<i>Requirement includes integration test/assessment</i>
3b	Citizenship/integration requirement exemptions (Blank if no assessment) a. Takes into account individual abilities ex. educational qualifications b. Exemptions for vulnerable groups ex. age, illiteracy, mental/physical disability	<i>Both of these</i>	<i>One of these</i>	<i>Neither of these</i>
3c	Conductor of citizenship/integration requirement (if no measure, leave blank) a. Education specialists b. Independent of government (ex. not part of a government department)	<i>a and b, ex. educational institutes</i>	<i>a but not b, ex. citizenship/integration unit in government</i>	<i>Neither a nor b, ex. police, foreigners' service, general consultant</i>
3d	Cost of citizenship/integration requirement (Blank if no assessment)	<i>No or nominal costs</i>	<i>Normal costs ex. If provided by state, same as regular administrative fees. If provided by private sector, same as market price</i>	<i>Higher costs</i>
3e	Support to pass citizenship/integration requirement (if no assessment, leave blank)	<i>a and b</i>	<i>a or b</i>	<i>Neither a nor b</i>

	a. Assessment based on publicly available list of questions or study guide b. Assessment based on publicly available course			
3f	Cost of citizenship/integration requirement (Blank if no assessment)	<i>No or nominal costs</i>	<i>Normal costs ex. If provided by state, same as regular administrative fees. If provided by private sector, same as market price</i>	<i>Higher costs</i>
4a	Criminal record requirement Note: Ground for rejection or application of a qualifying period (not rejection, but longer residence period)	<i>Crimes with sentences of imprisonment for ≥ 5 years OR Use of qualifying period instead of refusal</i>	<i>Crimes with sentences of imprisonment for < 5 years</i>	<i>For other offences (ex. misdemeanors, minor offenses, pending criminal procedure)</i>
4b	Good character' clause (different from criminal record requirement)	<i>None</i>	<i>A basic good character required (commonly used, i.e. also for nationals)</i>	<i>Higher good character requirement (i.e. than for nationals) or vague definition</i>
5	Economic resources requirement	<i>None</i>	<i>Minimum income (ex. acknowledged level of poverty threshold)</i>	<i>Additional requirements (ex. employment, stable and sufficient resources, higher levels of income)</i>
6	Loyalty requirement <i>Note: Here we are looking just for separate precondition of loyalty to the State as a requirement for naturalization excluding oath of allegiance</i>	<i>None</i>	Requirement of loyalty, clearly defined and//or with specific regime of exceptions e.g. for stateless persons	Requirement of loyalty without clear definition and /or applied regardless special circumstances of the applicant
II. PROCEDURAL ASPECTS				
7a	Application <i>a) nationality law provides for alternative form of evidence if some</i>	<i>a and b</i>	<i>a or b</i>	<i>Neither a nor b</i>

	<i>document cannot be objectively submitted</i> <i>b) if some document cannot be objectively submitted burden of proof shifts to the State</i>			
7b	<i>Language of application and of other documents required</i>	<i>All documents may be submitted in one of the official languages of the state or in given languages; state provides assistance with the translation and/or translation costs are withdrawn</i>	<i>All documents have to be submitted in one of the official languages of the state; translation costs may be withdrawn</i>	<i>All documents have to be submitted in one of the official languages of the state; translation and translation costs are borne by the applicant</i>
8a	Maximum length of application procedure	≤ 6 months	> 6 months but the maximum is defined by law	No regulation on maximum length
8b	<i>Costs of procedure (consider e.g. application fee, costs for issuance of nationality title or required documents etc.)</i>	<i>No or nominal costs</i>	<i>Normal costs ex. same as regular administrative fees</i>	<i>Higher costs</i>
8c	Additional grounds for refusing status: a. Proven fraud (ex. provision of false information) in the acquisition of citizenship b. Actual and serious threat to public policy or national security.	<i>No other than a</i>	<i>No other than a-b</i>	<i>Other than a-b</i>
8d	Discretionary powers in refusal	<i>Explicit entitlement for applicants that meet the conditions and grounds in</i>	<i>Discretion only on limited elements</i>	<i>Discretionary procedure</i>

		<i>law</i>		
8e	Before refusal, due account is taken of (regulated by law): a. personal behavior of resident b. age of resident, c. duration of residence and holding of nationality, d. consequences for both the resident and his or her family, e. existing links to the Member State concerned f. (non-)existing links to the resident's country of origin (including problems of re-entry for political or citizenship reasons), and g. alternative measures (downgrading to residence permit etc.)	<i>All elements</i>	<i>At least b, c, d, e and f</i>	<i>One or more of b, c, d, e or f are not taken into account (more liberal only for criminals)</i>
8f	Legal guarantees and redress in case of refusal: a. reasoned decision b. right to appeal c. representation before an independent administrative authority and/or a court	<i>All guarantees</i>	<i>At least a and b</i>	<i>One or both of a and b are not guaranteed</i>
III. OTHER AREAS OF CONCERN				
9	<i>Stateless status determination</i>	<i>Law provides for separate statelessness determination mechanism which efficiently identifies stateless persons in need of protection</i>	<i>Law provides only for statelessness determination if the need appears under other proceedings</i>	<i>Law does not provide whatsoever how to proceed if a person claims to be stateless</i>

10	<p><i>Assistance provided to stateless persons</i></p> <p><i>a) There is a policy in place aimed at integration of stateless persons including promotion of acquisition of citizenship via naturalization</i></p> <p><i>b) Stateless persons applying for naturalization are provided with systematic assistance and support (here we are interested in assistance in its broader sense, going beyond representation before an independent administrative authority and/or a court as stated under 12e(c))</i></p> <p><i>c) All above services are free of charge</i></p>	<i>All elements</i>	<i>a or b in combination with c</i>	<i>Neither a, b or c</i>
<i>Security of status</i>				
11 a	<p>Grounds for withdrawing status:</p> <p>a. Proven fraud (ex. provision of false information) in the acquisition of citizenship</p> <p>b. Actual and serious threat to public policy or national security.</p>	<i>No other than a</i>	<i>No other than a-b</i>	<i>Other than a-b</i>
11 b	Time limits for withdrawal (including other means of ceasing nationality by authority's decision) ³	<i>≤ 5 years after acquisition</i>	<i>> 5 years after acquisition</i>	<i>No time limits in law</i>
11 c	Withdrawal (including other means of ceasing nationality by authority's decision) that would lead to statelessness	<i>Explicitly prohibited in law</i>	<i>Discretionary, Taken into account in decision</i>	<i>Not addressed in law</i>

II. HUNGARY (overall score 39,00)

FACILITATED NATURALIZATION FOR STATELESS PERSONS				
I. MATERIAL REQUIREMENTS		100	50	0
1a	Residence Note: <i>Residence</i> is defined as the whole period of lawful and habitual stay since entry. For instance, if the requirement is 5 years with a permanent residence, which itself can only be obtained after 5 years' residence, please select <i>After ≥ 10 years</i>	<i>After ≤ 5 years of total residence</i>	<i>After > 5 < 10 years of total residence</i>	<i>After ≥ 10 years of total residence</i>
1b	<i>Lawful and habitual residence (consider in light of naturalization requirements of a particular state. For instance, if the requirement is 5 years with a permanent residence, consider requirements for permanent residence)</i>	<i>It is established under preferential terms for stateless persons</i>	<i>It is established under general conditions with a possibility to decide with regard to special circumstances of the case</i>	<i>It is established under general conditions</i>
1c	Periods of absence allowed previous to acquisition of nationality	<i>Longer periods</i>	<i>Up to 10 non-consecutive months and/or 6 consecutive months</i>	<i>Shorter periods (includes uninterrupted residence or where absence not regulated by law and left to administrative discretion)</i>
2	Language requirement Note: Can be test, interview, completion of course, or other forms of assessments.	<i>No assessment OR A1 or less set as standard²¹⁹</i>	<i>A2 set as standard</i>	<i>B1 or higher set as standard OR no standards, based on administrative discretion.</i>
3a	Citizenship/integration requirement Note: Can be test, interview, or other forms of assessments.	<i>No Requirement OR Voluntary course/information</i>	<i>Requirement to take an integration course</i>	<i>Requirement includes integration test/assessment</i>

²¹⁹ No direct assessment but it is implied into the constitutional issues exam that by definition means high level written and oral proficiency.

3b	Citizenship/integration requirement exemptions (Blank if no assessment) a. Takes into account individual abilities ex. educational qualifications b. Exemptions for vulnerable groups ex. age, illiteracy, mental/physical disability	<i>Both of these</i>	<i>One of these</i>	<i>Neither of these</i>
3c	Conductor of citizenship/integration requirement (if no measure, leave blank) a. Education specialists b. Independent of government (ex. not part of a government department)	<i>a and b, ex. educational institutes</i>	<i>a but not b, ex. citizenship/integration unit in government</i>	<i>Neither a nor b, ex. police, foreigners' service, general consultant</i>
3d	Cost of citizenship/integration requirement (Blank if no assessment)	<i>No or nominal costs</i>	<i>Normal costs ex. If provided by state, same as regular administrative fees. If provided by private sector, same as market price</i>	<i>Higher costs</i>
3e	Support to pass citizenship/integration requirement (if no assessment, leave blank) a. Assessment based on publicly available list of questions or study guide b. Assessment based on publicly available course	<i>a and b</i>	<i>a or b (only a)</i>	<i>Neither a nor b</i>
3f	Cost of citizenship/integration support(Blank if no assessment)	<i>No or nominal costs</i>	<i>Normal costs ex. If provided by state, same as regular administrative fees. If provided by private sector, same as market price</i>	<i>Higher costs</i>
4a	Criminal record requirement Note: Ground for rejection or application	<i>Crimes with sentences of imprisonment for ≥ 5 years</i>	<i>Crimes with sentences of imprisonment for < 5 years</i>	<i>For other offences (ex. misdemeanors, minor offenses,</i>

	of a qualifying period (not rejection, but longer residence period)	<i>OR Use of qualifying period instead of refusal</i>		<i>pending criminal procedure)</i>
4b	Good character' clause (different from criminal record requirement)	<i>None</i>	<i>A basic good character required (commonly used, i.e. also for nationals)</i>	<i>Higher good character requirement (i.e. than for nationals) or vague definition</i>
5	Economic resources requirement	<i>None</i>	<i>Minimum income (ex. acknowledged level of poverty threshold)</i>	<i>Additional requirements (ex. employment, stable and sufficient resources, higher levels of income)</i>
6	<i>Loyalty requirement</i> <i>Note: Here we are looking just for separate precondition of loyalty to the State as a requirement for naturalization excluding oath of allegiance</i>	<i>None</i>	<i>Requirement of loyalty, clearly defined and/or with specific regime of exceptions e.g. for stateless persons</i>	<i>Requirement of loyalty without clear definition and /or applied regardless special circumstances of the applicant</i>
II. PROCEDURAL ASPECTS				
7a	<i>Application</i> <i>a) nationality law provides for alternative form of evidence if some document cannot be objectively submitted</i> <i>b) if some document cannot be objectively submitted burden of proof shifts to the State</i>	<i>a and b</i>	<i>a or b²²⁰</i>	<i>Neither a nor b</i>
7b	<i>Language of application and of other documents required</i>	<i>All documents may be submitted in one of the official languages of the state or in given languages; state provides assistance</i>	<i>All documents have to be submitted in one of the official languages of the state; translation costs may be withdrawn</i>	<i>All documents have to be submitted in one of the official languages of the state; translation and translation costs are borne by the</i>

²²⁰ Missing documents are obtained before naturalization inside the statelessness determination procedure by the state.

		<i>with the translation and/or translation costs are withdrawn</i>		<i>applicant</i>
8a	Maximum length of application procedure	<i>≤ 6 months</i>	<i>> 6 months but the maximum is defined by law</i>	<i>No regulation on maximum length</i>
8b	<i>Costs of procedure (consider e.g. application fee, costs for issuance of nationality title or required documents etc.)</i>	<i>No or nominal costs</i>	<i>Normal costs ex. same as regular administrative fees</i>	<i>Higher costs</i>
8c	Additional grounds for refusing status: a. Proven fraud (ex. provision of false information) in the acquisition of citizenship b. Actual and serious threat to public policy or national security.	<i>No other than a</i>	<i>No other than a-b</i>	<i>Other than a-b</i>
8d	Discretionary powers in refusal	<i>Explicit entitlement for applicants that meet the conditions and grounds in law</i>	<i>Discretion only on limited elements</i>	<i>Discretionary procedure</i>
8e	Before refusal, due account is taken of (regulated by law): a. personal behavior of resident b. age of resident, c. duration of residence and holding of nationality, d. consequences for both the resident and his or her family, e. existing links to the Member State concerned f. (non-)existing links to the resident's	<i>All elements</i>	<i>At least b, c, d, e and f</i>	<i>One or more of b, c, d, e or f are not taken into account (generally only a, c, g are considered)</i>

	country of origin (including problems of re-entry for political or citizenship reasons), and g. alternative measures (downgrading to residence permit etc.)			
8f	Legal guarantees and redress in case of refusal: a. reasoned decision b. right to appeal c. representation before an independent administrative authority and/or a court	<i>All guarantees</i>	<i>At least a and b</i>	<i>One or both of a and b are not guaranteed</i>
III. OTHER AREAS OF CONCERN				
9	<i>Stateless status determination</i>	<i>Law provides for separate statelessness determination mechanism which efficiently identifies stateless persons in need of protection</i>	<i>Law provides only for statelessness determination if the need appears under other proceedings</i>	<i>Law does not provide whatsoever how to proceed if a person claims to be stateless</i>
10	<i>Assistance provided to stateless persons</i> <i>a) There is a policy in place aimed at integration of stateless persons including promotion of acquisition of citizenship via naturalization</i> <i>b) Stateless persons applying for naturalization are provided with systematic assistance and support (here we are interested in assistance in its broader sense, going beyond representation before an independent administrative authority and/or a court)</i>	<i>All elements</i>	<i>a or b in combination with c</i>	<i>Neither a, b or c</i>

	<i>as stated under 12e(c)</i> <i>c) All above services are free of charge</i>			
Security of status				
11 a	Grounds for withdrawing status: a. Proven fraud (ex. provision of false information) in the acquisition of citizenship b. Actual and serious threat to public policy or national security.	<i>No other than a</i>	<i>No other than a-b</i>	<i>Other than a-b</i>
11 b	Time limits for withdrawal (including other means of ceasing nationality by authority's decision)	<i>≤ 5 years after acquisition</i>	<i>> 5 years after acquisition</i>	<i>No time limits in law</i>
11 c	Withdrawal (including other means of ceasing nationality by authority's decision) that would lead to statelessness	<i>Explicitly prohibited in law</i>	<i>Discretionary, Taken into account in decision</i>	<i>Not addressed in law</i>

III. SLOVAKIA (overall score 52,50)

FACILITATED NATURALIZATION FOR STATELESS PERSONS				
I. MATERIAL REQUIREMENTS		100	50	0
1a	Residence Note: <i>Residence</i> is defined as the whole period of lawful and habitual stay since entry. For instance, if the requirement is 5 years with a permanent residence, which itself can only be obtained after 5 years' residence, please select <i>After ≥ 10 years</i>	<i>After ≤ 5 years of total residence</i>	<i>After > 5 < 10 years of total residence</i>	<i>After ≥ 10 years of total residence</i>
1b	<i>Lawful and habitual residence (consider in light of naturalization requirements of a particular state. For instance, if the</i>	<i>It is established under preferential terms for stateless persons</i>	<i>It is established under general conditions with a possibility to decide with</i>	<i>It is established under general conditions</i>

	<i>requirement is 5 years with a permanent residence, consider requirements for permanent residence)</i>		<i>regard to special circumstances of the case</i>	
1c	Periods of absence allowed previous to acquisition of nationality	<i>Longer periods</i>	<i>Up to 10 non-consecutive months and/or 6 consecutive months</i>	<i>Shorter periods (includes uninterrupted residence or where absence not regulated by law and left to administrative discretion)</i>
2	Language requirement Note: Can be test, interview, completion of course, or other forms of assessments.	<i>No assessment OR A1 or less set as standard</i>	<i>A2 set as standard</i>	<i>B1 or higher set as standard OR no standards, based on administrative discretion.</i>
3	Citizenship/integration requirement Note: Can be test, interview, or other forms of assessments.	<i>No Requirement OR Voluntary course/information</i>	<i>Requirement to take an integration course</i>	<i>Requirement includes integration test/assessment</i>
4a	Criminal record requirement Note: Ground for rejection or application of a qualifying period (not rejection, but longer residence period)	<i>Crimes with sentences of imprisonment for ≥ 5 years OR Use of qualifying period instead of refusal</i>	<i>Crimes with sentences of imprisonment for < 5 years</i>	<i>For other offences (ex. misdemeanors, minor offenses, pending criminal procedure)</i>
4b	Good character' clause (different from criminal record requirement)	<i>None</i>	<i>A basic good character required (commonly used, i.e. also for nationals)</i>	<i>Higher good character requirement (i.e. than for nationals) or vague definition</i>
5	Economic resources requirement	<i>None</i>	<i>Minimum income (ex. acknowledged level of poverty threshold)</i>	<i>Additional requirements (ex. employment, stable and sufficient resources, higher levels of income)</i>
6	<i>Loyalty requirement</i> <i>Note: Here we are looking just for separate precondition of loyalty to the State as a requirement for naturalization excluding oath of allegiance</i>	<i>None</i>	<i>Requirement of loyalty, clearly defined and/or with specific regime of exceptions e.g. for stateless persons</i>	<i>Requirement of loyalty without clear definition and/or applied regardless special circumstances of the applicant</i>

III. PROCEDURAL ASPECTS				
7a	Application <i>a) nationality law provides for alternative form of evidence if some document cannot be objectively submitted</i> <i>b) if some document cannot be objectively submitted burden of proof shifts to the State</i>	<i>a and b</i>	<i>a or b</i>	<i>Neither a nor b</i>
7b	Language of application and of other documents required	<i>All documents may be submitted in one of the official languages of the state or in given languages; state provides assistance with the translation and/or translation costs are withdrawn</i>	<i>All documents have to be submitted in one of the official languages of the state; translation costs may be withdrawn</i>	<i>All documents have to be submitted in one of the official languages of the state; translation and translation costs are borne by the applicant</i>
8a	Maximum length of application procedure	<i>≤ 6 months</i>	<i>> 6 months but the maximum is defined by law</i>	<i>No regulation on maximum length</i>
8b	Costs of procedure (consider e.g. application fee, costs for issuance of nationality title or required documents etc.)	<i>No or nominal costs</i>	<i>Normal costs ex. same as regular administrative fees</i>	<i>Higher costs</i>
8c	Additional grounds for refusing status: a. Proven fraud (ex. provision of false information) in the acquisition of citizenship b. Actual and serious threat to public policy or national security.	<i>No other than a</i>	<i>No other than a-b</i>	<i>Other than a-b</i>

8d	Discretionary powers in refusal	<i>Explicit entitlement for applicants that meet the conditions and grounds in law</i>	<i>Discretion only on limited elements</i>	<i>Discretionary procedure</i>
8e	Before refusal, due account is taken of (regulated by law): a. personal behavior of resident b. age of resident, c. duration of residence and holding of nationality, d. consequences for both the resident and his or her family, e. existing links to the Member State concerned f. (non-)existing links to the resident's country of origin (including problems of re-entry for political or citizenship reasons), and g. alternative measures (downgrading to residence permit etc.)	<i>All elements</i>	<i>At least b, c, d, e and f</i>	<i>One or more of b, c, d, e or f are not taken into account</i>
8f	Legal guarantees and redress in case of refusal: a. reasoned decision b. right to appeal c. representation before an independent administrative authority and/or a court	<i>All guarantees</i>	<i>At least a and b</i>	<i>One or both of a and b are not guaranteed</i>
III. OTHER AREAS OF CONCERN				
9	<i>Stateless status determination</i>	<i>Law provides for separate statelessness determination mechanism which</i>	<i>Law provides only for statelessness determination if the need appears under other</i>	<i>Law does not provide whatsoever how to proceed if a person claims to be stateless</i>

		<i>efficiently identifies stateless persons in need of protection</i>	<i>proceedings</i>	
10	<i>Assistance provided to stateless persons a) There is a policy in place aimed at integration of stateless persons including promotion of acquisition of citizenship via naturalization b) Stateless persons applying for naturalization are provided with systematic assistance and support (here we are interested in assistance in its broader sense, going beyond representation before an independent administrative authority and/or a court as stated under 12e(c)) c) All above services are free of charge</i>	<i>All elements</i>	<i>a or b in combination with c</i>	<i>Neither a, b or c</i>
Security of status				
11 a	Grounds for withdrawing status: a. Proven fraud (ex. provision of false information) in the acquisition of citizenship b. Actual and serious threat to public policy or national security.	<i>No other than a</i>	<i>No other than a-b</i>	<i>Other than a-b</i>
11 b	Time limits for withdrawal (including other means of ceasing nationality by authority's decision)	<i>≤ 5 years after acquisition</i>	<i>> 5 years after acquisition</i>	<i>No time limits in law</i>
11 c	Withdrawal (including other means of ceasing nationality by authority's decision) that would lead to statelessness	<i>Explicitly prohibited in law</i>	<i>Discretionary, Taken into account in decision</i>	<i>Not addressed in law</i>

