

2002. évi III. törvény

az Európa Tanács keretében, 1997. november 6-án kelt, az állampolgárságról szóló Európai Egyezmény kihirdetéséről¹

Hatályos: 2007. 01. 01. –

1. § Az Országgyűlés az Európa Tanács keretében, 1997. november 6-án kelt, az állampolgárságról szóló Európai Egyezményt e törvénnyel kihirdeti.

(Az Egyezmény megerősítéséről szóló okiratot a Magyar Köztársaság külügyminisztere 2001. november 21. napján az Európa Tanács Főtitkáránál letétbe helyezte; az Egyezmény – annak 27. Cikke 3. bekezdése alapján – 2002. március 1-jén hatályba lép.)

2. § Az Egyezmény eredeti angol nyelvű szövege és hiteles magyar nyelvű fordítása a következő:

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European Convention on Nationality

Preamble

The member States of the Council of Europe and the other States signatory to this Convention, considering that the aim of the Council of Europe is to achieve greater unity between its members, bearing in mind the numerous international instruments relating to nationality, multiple nationality and statelessness, recognising that, in matters concerning nationality, account should be taken both of the legitimate interests of States and those of individuals,

desiring to promote the progressive development of legal principles concerning nationality, as well as their adoption in internal law and desiring to avoid, as far as possible, cases of statelessness,

desiring to avoid discrimination in matters relating to nationality,

aware of the right to respect for family life as contained in Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms,

noting the varied approach of States to the question of multiple nationality and recognising that each State is free to decide which consequences it attaches in its internal law to the fact that a national acquires or possesses another nationality,

agreeing on the desirability of finding appropriate solutions to consequences of multiple nationality and in particular as regards the rights and duties of multiple nationals,

considering it desirable that persons possessing the nationality of two or more States Parties should be required to fulfil their military obligations in relation to only one of those Parties,

considering the need to promote international co-operation between the national authorities responsible for nationality matters, have agreed as follows:

Chapter I

GENERAL MATTERS

Article 1

Object of the Convention

This Convention establishes principles and rules relating to the nationality of natural persons and rules regulating military obligations in cases of multiple nationality, to which the internal law of States Parties shall conform.

Article 2

Definitions

For the purpose of this Convention:

- a) „nationality" means the legal bond between a person and a State and does not indicate the person's ethnic origin;
- b) „multiple nationality" means the simultaneous possession of two or more nationalities by the same person;
- c) „child" means every person below the age of 18 years unless, under the law applicable to the child, majority is attained earlier;
- d) „internal law" means all types of provisions of the national legal system, including the constitution, legislation, regulations, decrees, case-law, customary rules and practice as well as rules deriving from binding international instruments.

Chapter II

GENERAL PRINCIPLES RELATING TO NATIONALITY

Article 3

Competence of the State

1. Each State shall determine under its own law who are its nationals.
2. This law shall be accepted by other States in so far as it is consistent with applicable international conventions, customary international law and the principles of law generally recognised with regard to nationality.

Article 4

Principles

The rules on nationality of each State Party shall be based on the following principles:

- a) everyone has the right to a nationality;
- b) statelessness shall be avoided;
- c) no one shall be arbitrarily deprived of his or her nationality;
- d) neither marriage nor the dissolution of a marriage between a national of a State Party and an alien, nor the change of nationality by one of the spouses during marriage, shall automatically affect the nationality of the other spouse.

Article 5

Non-discrimination

1. The rules of a State Party on nationality shall not contain distinctions or include any practice which amount to discrimination on the grounds of sex, religion, race, colour or national or ethnic origin.
2. Each State Party shall be guided by the principle of non-discrimination between its nationals, whether they are nationals by birth or have acquired its nationality subsequently.

Chapter III

RULES RELATING TO NATIONALITY

Article 6

Acquisition of nationality

1. Each State Party shall provide in its internal law for its nationality to be acquired *ex lege* by the following persons:
 - a) children one of whose parents possesses, at the time of the birth of these children, the nationality of that State Party, subject to any exceptions which may be provided for by its internal law as regards children born abroad. With respect to children whose parenthood is established by recognition, court order or similar procedures, each State Party may provide that the child acquires its nationality following the procedure determined by its internal law;
 - b) foundlings found in its territory who would otherwise be stateless.
2. Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality. Such nationality shall be granted:
 - a) at birth *ex lege*; or
 - b) subsequently, to children who remained stateless, upon an application being lodged with the appropriate authority, by or on behalf of the child concerned, in the manner prescribed by the internal law of the State Party. Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application.
3. Each State Party shall provide in its internal law for the possibility of naturalisation of persons lawfully and habitually resident on its territory. In establishing the conditions for naturalisation, it shall not provide for a period of residence exceeding ten years before the lodging of an application.
4. Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons:
 - a) spouses of its nationals;
 - b) children of one of its nationals, falling under the exception of Article 6, paragraph 1, sub-paragraph a);
 - c) children one of whose parents acquires or has acquired its nationality;
 - d) children adopted by one of its nationals;
 - e) persons who were born on its territory and reside there lawfully and habitually;
 - f) persons who are lawfully and habitually resident on its territory for a period of time beginning before the age of 18, that period to be determined by the internal law of the State Party concerned;
 - g) stateless persons and recognised refugees lawfully and habitually resident on its territory.

Article 7

Loss of nationality ex lege or at the initiative of a State Party

1. A State Party may not provide in its internal law for the loss of its nationality *ex lege* or at the initiative of the State Party except in the following cases:
 - a) voluntary acquisition of another nationality;
 - b) acquisition of the nationality of the State Party by means of fraudulent conduct, false information or concealment of any relevant fact attributable to the applicant;
 - c) voluntary service in a foreign military force;
 - d) conduct seriously prejudicial to the vital interests of the State Party;
 - e) lack of a genuine link between the State Party and a national habitually residing abroad;
 - f) where it is established during the minority of a child that the preconditions laid down by internal law which led to the *ex lege* acquisition of the nationality of the State Party are no longer fulfilled;
 - g) adoption of a child if the child acquires or possesses the foreign nationality of one or both of the adopting parents.

2. A State Party may provide for the loss of its nationality by children whose parents lose that nationality except in cases covered by sub-paragraphs *c)* and *d)* of paragraph 1. However, children shall not lose that nationality if one of their parents retains it.

3. A State Party may not provide in its internal law for the loss of its nationality under paragraphs 1 and 2 of this article if the person concerned would thereby become stateless, with the exception of the cases mentioned in paragraph 1, sub-paragraph *b)*, of this article.

Article 8

Loss of nationality at the initiative of the individual

1. Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless.

2. However, a State Party may provide in its internal law that renunciation may be effected only by nationals who are habitually resident abroad.

Article 9

Recovery of nationality

Each State Party shall facilitate, in the cases and under the conditions provided for by its internal law, the recovery of its nationality by former nationals who are lawfully and habitually resident on its territory.

Chapter IV

PROCEDURES RELATING TO NATIONALITY

Article 10

Processing of applications

Each State Party shall ensure that applications relating to the acquisition, retention, loss, recovery or certification of its nationality be processed within a reasonable time.

Article 11

Decisions

Each State Party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality contain reasons in writing.

Article 12

Right to a review

Each State Party shall ensure that decisions relating to the acquisition, retention, loss, recovery or certification of its nationality be open to an administrative or judicial review in conformity with its internal law.

Article 13

Fees

1. Each State Party shall ensure that the fees for the acquisition, retention, loss, recovery or certification of its nationality be reasonable.
2. Each State Party shall ensure that the fees for an administrative or judicial review be not an obstacle for applicants.

Chapter V

MULTIPLE NATIONALITY

Article 14

Cases of multiple nationality

1. A State Party shall allow:
 - a) children having different nationalities acquired automatically at birth to retain these nationalities;
 - b) its nationals to possess another nationality where this other nationality is automatically acquired by marriage.
2. The retention of the nationalities mentioned in paragraph 1 is subject to the relevant provisions of Article 7 of this Convention.

Article 15

Other possible cases of multiple nationality

The provisions of this Convention shall not limit the right of a State Party to determine in its internal law whether:

- a) its nationals who acquire or possess the nationality of another State retain its nationality or lose it;
- b) the acquisition or retention of its nationality is subject to the renunciation or loss of another nationality.

Article 16

Conservation of previous nationality

A State Party shall not make the renunciation or loss of another nationality a condition for the acquisition or retention of its nationality where such renunciation or loss is not possible or cannot reasonably be required.