

CARIM INDIA – DEVELOPING A KNOWLEDGE BASE FOR POLICYMAKING ON INDIA-EU MIGRATION

Co-financed by the European Union

Dual citizenship in the relationship India-Europe

**Gerard-René de Groot
Maarten Peter Vink**

CARIM-India Research Report 2013/26

CARIM-India
Developing a knowledge base for policymaking on India-EU migration

Research Report
Thematic Report
CARIM-India RR2013/26

Dual citizenship in the relationship India-Europe

Gerard-René de Groot⁽¹⁾, Maarten Peter Vink⁽²⁾

Professor of Comparative Law and Private International Law in Maastricht, Aruba and Hasselt(1),
Associate Professor, Department of Political Science, Maastricht University; Part-time professor,
RSCAS, EUI (2)

© 2013, European University Institute
Robert Schuman Centre for Advanced Studies

This text may be downloaded only for personal research purposes. Any additional reproduction for other purposes, whether in hard copies or electronically, requires the consent of the Robert Schuman Centre for Advanced Studies.

Requests should be addressed to India-EU.Migration@eui.eu

If cited or quoted, reference should be made as follows:

Gerard-René de Groot, Maarten Peter Vink, Dual citizenship in the relationship India-Europe, CARIM-India RR 2013/26, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2013.

THE VIEWS EXPRESSED IN THIS PUBLICATION CANNOT IN ANY CIRCUMSTANCES BE REGARDED AS THE OFFICIAL POSITION OF THE EUROPEAN UNION

European University Institute
Badia Fiesolana
I – 50014 San Domenico di Fiesole (FI)
Italy

<http://www.eui.eu/RSCAS/Publications/>
<http://www.india-eu-migration.eu/publications/>
<http://cadmus.eui.eu>

CARIM-India – Developing a knowledge base for policymaking on India-EU migration

This project is co-financed by the European Union and carried out by the EUI in partnership with the Indian Council of Overseas Employment, (ICOE), the Indian Institute of Management Bangalore Association, (IIMB), and Maastricht University (Faculty of Law).

The proposed action is aimed at consolidating a constructive dialogue between the EU and India on migration covering all migration-related aspects. The objectives of the proposed action are aimed at:

- Assembling high-level Indian-EU expertise in major disciplines that deal with migration (demography, economics, law, sociology and politics) with a view to building up migration studies in India. This is an inherently international exercise in which experts will use standardised concepts and instruments that allow for aggregation and comparison. These experts will belong to all major disciplines that deal with migration, ranging from demography to law and from economics to sociology and political science.
- Providing the Government of India as well as the European Union, its Member States, the academia and civil society, with:
 1. Reliable, updated and comparative information on migration
 2. In-depth analyses on India-EU highly-skilled and circular migration, but also on low-skilled and irregular migration.
- Making research serve action by connecting experts with both policy-makers and the wider public through respectively policy-oriented research, training courses, and outreach programmes.

These three objectives will be pursued with a view to developing a knowledge base addressed to policy-makers and migration stakeholders in both the EU and India.

Results of the above activities are made available for public consultation through the website of the project: <http://www.india-eu-migration.eu/>

For more information:

CARIM-India

Robert Schuman Centre for Advanced Studies (EUI)

Convento

Via delle Fontanelle 19

50014 San Domenico di Fiesole

Italy

Tel: +39 055 46 85 817

Fax: + 39 055 46 85 770

Email: India-EU.Migration@eui.eu

Robert Schuman Centre for Advanced Studies

<http://www.eui.eu/RSCAS/>

Table of Contents

Table of Contents 4

Abstract 5

1. Introduction 1

2. The Indian attitude towards dual nationality and the development of the status of Overseas Citizen of India..... 1

 A) The general attitude of India towards dual citizenship 1

 B) The development and content of the status of OCI..... 2

3. The development of the attitude towards dual nationality in Europe 5

 A) General remarks 5

 B) Voluntary acquisition of foreign citizenship as ground for loss of citizenship..... 5

 C) Renunciation requirement as condition for naturalization 10

4. Possible developments in India 11

 A) India accepts dual citizenship 11

 B) India increases rights of Overseas Citizen of India..... 12

5. Concluding remarks 12

Annex 1. Voluntary acquisition of a foreign citizenship as a ground for loss of citizenship in Europe 15

Annex 2. Renunciation requirement and other conditions for ordinary naturalization in Europe 18

Abstract

This paper discusses the politically controversial topic of dual or multiple citizenship in the context of the relationships between India and Europe, and EU member States in particular. The paper first focuses on the attitude of the Indian legislator towards dual citizenship and pays particular attention to the development of a special status for Overseas Indians holding another citizenship. Thereafter it discusses the attitude of Member States of the European Union towards dual or multiple citizenship, and how this attitude has changed in the course of the years. Finally, the paper explores the changes that would occur if India would accept the possibility to possess dual citizenship c.q. if it would considerably increase the rights of Overseas Citizens of India.

1. Introduction

Traditionally, most countries have tried to design their citizenship legislation so that an individual person could only possess one citizenship. Statelessness was considered to be an anomalous situation and the same thing held true for dual or multiple citizenship. The general opinion was that multiple citizenship would create complications, amongst which conflicting loyalties to different States was considered to be the most problematic. Moreover, multiple citizenship would conflict with the very nature of citizenship, which was considered to consist of an exclusive link between a person and a State. The French author André Weiss (1907)¹ expressed this with a reference to words of Proudhon (1848): “Nobody can have more than one nationality, like nobody can have more than one mother”^{2, 3}.

However, the attitude towards dual or multiple citizenship changed considerably during the twentieth century and the beginning of the twentieth-first century. In this paper first some remarks on the attitude of the Indian legislator will be made (Section 2A). Special attention will be given to the development of a special status for Overseas Indians holding another citizenship (Section 2B). Second, the development of the attitude of Member States of the European Union towards dual or multiple citizenship will be given (Section 3). Section 4A discusses what would change if India would accept the possibility to possess dual citizenship. Section 4B discusses the possible implications if India would considerably increase the rights of Overseas Citizens of India. Some concluding remarks will be made in Section 5.

The content of Section 3 of this paper is based on several comparative studies conducted on grounds for acquisition and loss of nationality, in particular of the Member States of the European Union.⁴ Inter alia on the basis of these studies detailed data are collected on the grounds of acquisition and loss of the citizenship of Member States of the European Union and presented in the databases of the European Union Democracy Observatory on Citizenship (EUDO Citizenship).⁵ Two very relevant tables of those databases are included as annexes to this paper.

2. The Indian attitude towards dual nationality and the development of the status of Overseas Citizen of India

A) The general attitude of India towards dual citizenship

Already the Constitution of India of 26 November 1949⁶ gives a clear indication of the attitude of India towards cases of dual or multiple citizenship. After having determined who are Indian citizens at the commencement of the Constitution (i.e. the initial acquisition of Indian citizenship at and directly after independence in Articles 5-8), Article 9 provides:

“No person shall be a citizen of India by virtue of article 5, or deemed to be a citizen of India by virtue of article 6 or article 8, if he has voluntarily acquired a citizenship of any foreign state.”⁷

¹ Weiss 1907, 25.

² Proudhon 1848, 93.

³ See for more details De Groot 2003b, 99, 100.

⁴ Goodman 2010; De Groot 1989; De Groot and Vink 2010; Vink and De Groot 2010.

⁵ See www.eudo-citizenship.eu (last visited on 28 May 2013). The Eudo Observatory is a co-operation project between the European University Institute in Florence, Edinburgh University, UCD Dublin University, Maastricht University and the Migration Policy Group.

⁶ Parry 1957, 858; see also Hecker 1965, 101-103.

⁷ Agrawala/ Koteswara Rao 1990, 70; Fransman 2012, 1010; Roy 2010, 33, 34..

However, according to “The Constitution (Declaration as to foreign states Order No. 2)” of 23 January 1950⁸ Commonwealth States are no foreign States for the application of Article 9 of the Constitution.⁹

The Citizenship Act 1955¹⁰ provides in Section 9 that the voluntary acquisition of the citizenship of another country causes the loss of Indian citizenship. Section 9 uses the expression “of another country” and not the words mentioned in Article 9 Constitution (“of any foreign state”). Consequently, the just mentioned “The Constitution (Declaration as to foreign states Order No. 2)” does not apply for the application of Section 9 Citizenship Act. The acquisition of the citizenship of all countries, including Commonwealth States, therefore causes the loss of Indian citizenship under the Citizenship Act.¹¹

Indian citizenship is not lost by voluntary acquisition of another citizenship, if the acquisition takes place during a war in which India is engaged, until the Indian Government directs otherwise.

The possession of another citizenship conferred involuntarily by operation of law (e.g. by virtue of birth, descent or incorporation of territory) is not classified as voluntary acquisition in the sense of Section 9.¹² In such cases dual citizenship may exist. A person who possesses another citizenship next to Indian citizenship may renounce Indian citizenship under Section 8 Citizenship Act.¹³ Section 8(1) reads:

“(1) If any citizen of India of full age and capacity, who is also a citizen or national of another country, makes in the prescribed manner a declaration renouncing his Indian citizenship, the declaration shall be registered by the prescribed authority; and, upon such registration, that person shall cease to be a citizen of India. Provided that if any such declaration is made during any war in which India may be engaged, registration thereof shall be withheld until the Central Government otherwise directs.”

Section 8(2) provides that minor children of a person who renounces Indian citizenship will also lose Indian citizenship, but can reacquire this citizenship by registration within one year after having reached the age of majority.

However, it is of importance to underpin that the loss of Indian citizenship *by voluntary acquisition* of the citizenship of another country by a person, does *not* affect the Indian citizenship of his or her children or of the spouse of such person.¹⁴

Section 6 of the Citizenship Act requires for the acquisition of Indian citizenship by naturalization the renunciation of the citizenship of another country.¹⁵ Therefore, we can conclude that India also via this naturalization requirement wants to avoid cases of dual or multiple citizenship.

B) The development and content of the status of OCI

Many persons of Indian origin live outside of India. Inter alia because of the Indian attitude towards dual or multiple citizenship, only a relatively small percentage of those persons possess Indian citizenship.¹⁶

⁸ Gazette of India of 25 January 1950.

⁹ Hecker 1965, 17.

¹⁰ Gazette of India of 2 May 1955; see also Hecker 1965, 105-114; Roy 2010, 34-37..

¹¹ Hecker 1965, 27. See also p. 28-39 on the question whether the acquisition of a foreign passport is always conclusive proof of having voluntarily acquired the citizenship of another country. See on that issue also Agrawala/ Koteswara Rao 1990, 88.

¹² Agrawala/ Koteswara Rao 1990, 85.

¹³ Agrawala/ Koteswara Rao 1990, 84, 105, 106.

¹⁴ Agrawala/ Koteswara Rao 1990, 85.

¹⁵ Agrawala/ Koteswara Rao 1990, 82.

¹⁶ See for statistics on the number of persons of Indian origin around 1990 Agrawala/ Koteswara Rao 1990, 121-123.

In order to build up special ties with people of Indian origin who do not possess Indian citizenship the status of Persons of Indian Origin (PIO) was created. A PIO-card has a validity of 15 years. A PIO-cardholder does not need a visa in order to enter India. Reporting to police authorities is only necessary if the PIO-cardholder stays for more than 180 days in India.

Moreover, the Citizenship Amendment Act 2005 introduced the status of Overseas Citizens of India (abbreviated as OCI).¹⁷ The status provides for a life-long visa for the cardholder, exemption from the obligation to register with local police authorities and parity with Indian citizen in respect of economic, financial and educational fields.

In respect of the eligibility for the status of OCI Section 7A of the Citizenship Act¹⁸ provides:

“The Central Government may, subject to such conditions and restrictions as may be prescribed, on an application made in this behalf, register as an overseas citizens of India—

- a) any person of full age and capacity,—
 - i. who is citizen of another country, but was a citizen of India as the time of , or at any time after, the commencement of the Constitution; or
 - ii. who is citizen of another country, but was eligible to become a citizen of India at the time of the commencement of the Constitution; or
 - iii. who is citizen of another country, but belonged to a territory that became part of India after the 15th day of August, 1947; or
 - iv. who is a child or a grand-child of such a citizen; or
- b) a person, who is a minor child of a person mentioned in clause (a): Provided that no person, who is or had been citizen of Pakistan, Bangladesh or such other country as the Central Government may, by notification in the Official Gazette, specify, shall be eligible for registration as an overseas citizen of India.”

An OCI is entitled to many rights on parity with Indian citizens. Section 7B (1) underpins:

“Notwithstanding anything contained in any other law for the time being in force, an overseas citizen of India shall be entitled to such rights other than the rights specified under sub-section (2) as the Central Government may, by notification in the Official Gazette, specify in this behalf.”¹⁹

Important are the exceptions expressly mentioned in Section 7B(2):

“An overseas citizen of India shall not be entitled to the rights conferred on a citizen of India—

- a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;
- b) under article 58 of the Constitution for election as President;
- c) under article 66 of the Constitution for election of Vice-President;
- d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;
- e) under article 217 of the Constitution for appointment as a Judge of the High Court;
- f) under section 16 of the Representation of the People Act, 1950 with regard to registration as a voter;
- g) under sections 3 and 4 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the House of the People or of the Council of states, as the case may be;

¹⁷ Gazette of India of 11 April 2005.

¹⁸ <http://www.immihelp.com/nri/overseascitizenshipindia/citizenship-act-1955.html> (last visited on 28 May 2013).

¹⁹ See for a survey of the legal consequences of the OCI-status: <http://www.immihelp.com/nri/pio-vs-oci.html> (last visited on 28 May 2013).

- h)* under sections 5, 5A and 6 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the Legislative Assembly or a Legislative Council, as the case may be, of a State;
- i)* for appointment to public services and posts in connection with the affairs of the Union or of any State except for appointment in such services and posts as the Central Government may, by special order in that behalf, specify.”

An OCI may register as a citizen of India, if (s)he possesses already the OCI-status for five years and has been residing in India for one year immediately before making an application for registration (see Section 5(1)(g) Citizenship Act).

The possibility to renounce the OCI-status is regulated by Section 7C. Section 7D provides in which cases the Central Government may cancel the OCI-registration. The grounds for cancelling this registration correspond in main lines with the grounds for deprivation of Indian citizenship as mentioned in Section 10 Citizenship Act.²⁰ The grounds for cancelling are:

- “(a) the registration as an overseas citizen of India was obtained by means of fraud, false representation or the concealment of any material fact; or
- (b) the overseas citizen of India has shown disaffection towards the Constitution of India as by law established; or
- (c) the overseas citizen of India has, during any war in which India may be engaged, unlawfully traded or communicated with an enemy or been engaged in, or associated with, any business or commercial activity that was to his knowledge carried on in such manner as to assist an enemy in that war; or
- (d) the overseas citizen of India has, within five years after registration under sub-section (1) of section 7A has been sentenced to imprisonment for a term of not less than two years; or
- (e) it is necessary so to do in the interest of the sovereignty and integrity of India, the security of India, friendly relations of India with any foreign country, or in the interests of the general public.”

Several differences exist between OCI and PIO-cardholders in respect of the eligibility conditions and the application process as well as the benefits.²¹ In January 2011 Prime Minister Manmohan Singh announced merging of the Overseas Citizen of India (OCI) and the Persons of Indian Origin (PIO) cards into a single facility to simplify visa-free entry and participation of Indian diaspora in business and other activities in India.²²

A Citizenship (Amendment) Bill 2011, submitted by Rajya Sabha on 8 December 2011²³ proposes to substitute the term of “Overseas citizen of India” by “Overseas Indian Cardholder”. The bill enlarges the categories of persons who are eligible for registration as an overseas Indian cardholder. The Bill proposes to include (i) a great grandchild of a citizen of India; (ii) a minor child of a citizen of India; and (iii) the spouse of an Indian citizen who has been married for at least two years before applying for registration.²⁴ Furthermore, the bill proposes that the government may relax the requirement of one year continuous residence for registration as an Indian citizen by 30 days, if special circumstances exist.²⁵

²⁰ See Art. 10(2)(a)-(d) Citizenship Act. Art. 10(2)(e) Citizenship Act (deprivation due to seven years residence abroad) does not have a corresponding provision in Art. 7D, because it would conflict with the purpose of the introduction of the OCI-status. Art. 7D(e) does not have a corresponding rule in Art. 10.

²¹ <http://www.immihelp.com/nri/pio-vs-oci.html> (last visited on 38 May 2013).

²² <http://www.indianexpress.com/news/pm-announces-merging-of-oci-pio-cards/735090/> (last visited on 28 May 2013).

²³ <http://www.immihelp.com/nri/overseascitizenshipindia/citizenship-act-1955.html> (last visited on 28 May 2013).

²⁴ See the proposed Art. 7A(a)(iv) and (b)-(d).

²⁵ [http://www.prsindia.org/uploads/media/Citizenship/Citizenship%20\(Amendment\)%20Bill,%202011.pdf](http://www.prsindia.org/uploads/media/Citizenship/Citizenship%20(Amendment)%20Bill,%202011.pdf) (last visited on 28 May 2013).

The Report of the Standing Committee was positive on the Bill.²⁶ However, the Committee recommended that the foreign spouse of an *overseas Indian cardholder* should also be eligible for an overseas Indian card. Under the Bill, only the foreign spouse of an *Indian citizen* is eligible for an overseas Indian card. Furthermore, the Committee asked the Ministry to examine

separately the issues related to Bangladeshi refugees, West Pakistani refugees, Chakma refugees and Riang tribes.²⁷ The bill is at the moment of writing still pending in parliament.²⁸

It is important to stress, that PIO and OCI-status do not imply the possession of Indian citizenship. However, it has to be admitted that in particular the term “Overseas *Citizen* of India” as well as the fact that this special status is regulated in the Citizenship Act can cause confusion.

3. The development of the attitude towards dual nationality in Europe

A) General remarks

First of all, the attitude of a Member State towards cases of dual or multiple citizenship is primarily manifested by the fact, whether or not a State provides for the loss of citizenship in case of voluntary acquisition of a foreign citizenship by a national. Secondly, several States try to avoid dual or multiple citizenship by requiring that a person who applies for naturalization, renounces his or her old citizenship, if this citizenship is not lost automatically due to the voluntary acquisition of another citizenship. In the next two subparagraphs it will be described, how the attitude of European States developed on these two points in recent times. Particular attention will be paid to the Member States of the European Union.

The Member States of the European Union are (still) autonomous in respect of the regulation of the grounds for acquisition and loss of citizenship.²⁹ This is in particular true for the regulation of the conditions for naturalization, e.g. for the question whether or not they want to require the renunciation of the old citizenship as a condition for naturalization. Also the grounds of loss of nationality can primarily be determined by the Member States, although Member States have to observe the European principle of proportionality as pointed out by the European Court of Justice in the 2010 landmark ruling in Rottmann.³⁰

B) Voluntary acquisition of foreign citizenship as ground for loss of citizenship

The European Convention on Nationality (hereinafter: ECN)³¹ concluded in Strasbourg in 1997 mentions in Article 7(1)(a) voluntary acquisition of another nationality as an acceptable ground for loss of citizenship. The fact that this ground for loss is mentioned first clearly indicates its importance as a classical ground for loss of citizenship.

Whereas the ECN does not provide a further specification of the conditions for loss under this ground, some other international instruments provide further guidelines. In particular, the 1961

²⁶ http://www.prsindia.org/uploads/media/Citizenship/SCR%20Summary%20-%20The%20Citizenship%20_Amendment_%20Bill,%202011.pdf (last visited on 28 May 2013).

²⁷ See on the problems of those ethnic groups Roy 2010, passim.

²⁸ <http://www.prsindia.org/billtrack/security-law-strategic-affairs/pending/> (last visited on 28 May 2013).

²⁹ See on this issue De Groot/ Vink 2013, 3,4; De Groot 2005a.

³⁰ See De Groot/ Seling 2011.

³¹ CETS 166.

Convention on the Reduction of Statelessness³² underlines that loss due to voluntary acquisition is only acceptable if the foreign citizenship is really acquired. In other words, the mere *application* for a foreign citizenship should not automatically cause the loss of the original citizenship:

“A national of a Contracting State who seeks naturalisation in a foreign country shall not lose his nationality unless he acquires or has been accorded assurance of acquiring the nationality of that foreign country” (Article 7(2)).

Voluntary acquisition is also the core rule of the 1963 Convention on Reduction of Cases of Multiple Nationality³³, which also very specifically deals with the *acquisition* of a foreign citizenship:

“Nationals of the Contracting Parties who are of full age and who acquire of their own free will, by means of naturalisation, option or recovery, the nationality of another Party shall lose their former nationality. They shall not be authorised to retain their former nationality” (Article 1(1)).

Important to note is that the loss of citizenship in line with this provisions is assumed to take place automatically, by way of a ‘lapse’ of citizenship, and without requiring a specific administrative procedure.

The 1963 Strasbourg Convention was originally ratified by ten (Western-)European States.³⁴ However, after long discussions in the Council of Europe, a Second Protocol to the 1963 Convention was opened for signature on 2 February 1993, allowing exceptions to be made to the main principle of article 1 of the 1963 Convention.³⁵ For the contracting states party to the Second Protocol voluntary acquisition of a foreign citizenship does not necessarily cause the loss of the previous nationality, if

- a) a national acquires the nationality of another Contracting Party on whose territory she or he either was born and is resident, or has been ordinarily resident for a period of time beginning before the age of 18;
- b) a spouse acquires of his or her own free will the nationality of the other spouse;
- c) a minor whose parents are nationals of different Contracting Parties acquires the nationality of one of its parents.

It was expected, that many of the ten Contracting States to the Convention of 1963 would accede to the Second Protocol, but at the end only three States did so. Italy ratified the Second Protocol on 27 January 1995, France on 23 February 1995 and the Netherlands on 19 July 1996. The Second Protocol came into force between Italy and France on 24 March 1995. The Netherlands is bound by the Protocol since 20 August 1996. Between these countries article 1 of the 1963 Convention was no longer operative for the categories mentioned in the protocol. However, France and Italy denounced the nationality chapter of the 1963 Convention and – therefore – also the Second Protocol. Consequently, France is no longer bound to the Convention since 5 March 2009 and Italy no longer since 4 June 2010. As a result, since 2010, the Second Protocol has only relevancy for the Netherlands.

Instead of acceding to the Second Protocol four other Contracting States to the 1963 Convention decided to denounce the (nationality chapter) of the 1963 Convention. This step was taken by – chronologically- Sweden, Germany, Belgium and Luxembourg. As already mentioned, finally also France and Italy took this step.³⁶

Consequently, Chapter 1 of the 1963 Convention is *anno* 2013 only relevant for Austria, Denmark, the Netherlands and Norway, whereas the 1993 Second Protocol has relevance only for the national

³² UNTS 989, 175.

³³ CETS 043; UNTS 634, 221. See for more details on that Convention De Groot 2003b, 103-105 and Vonk 2010, 61-63.

³⁴ De Groot 2003b, 104.

³⁵ CETS 149. See on the Second Protocol: Vonk 2010, 63-65.

³⁶ See for details De Groot/ Vink 2010 and Vonk 2010, 63-65.

law of the Netherlands.³⁷ The exceptions mentioned in the Protocol continue to inspire national citizenship law in the Netherlands (see NET 15(2)).

In this light it is absolutely not surprising, that we can observe in comparative perspective, that in a decreasing number of countries the citizenship law provides for the loss of citizenship as a result of voluntary acquisition of a foreign citizenship. Of the Member States of the European Union (27 Member States plus Croatia) seventeen countries allow for the voluntary acquisition of another citizenship, without consequences in terms of loss of the original citizenship. In many of these countries, relevant loss provisions were abolished relatively recently.³⁸ Voluntary acquisition is *not* a ground for loss in Belgium (since 2007/ 2008), Bulgaria (1948), Croatia, Cyprus, Finland (since 2003), France (since 1973/ 2009)³⁹, Greece (1914), Hungary (1957), Ireland (1956, but see below), Italy (1992/ 2010)⁴⁰, Luxembourg (2009), Malta (2000), Poland (1951), Portugal (1981), Romania (1948), Sweden (2001) and the United Kingdom (1949).

Eleven Member States (see Annex 1) do maintain voluntary acquisition as a ground for loss.

me of these countries always provide for loss, if a foreign citizenship is acquired voluntarily, without making any exception. An example is Denmark, where a person who is of full age loses her or his Danish citizenship by acquiring another citizenship by application or explicit consent (DEN 7(1)).⁴¹ Czech citizenship is lost by acquisition of another citizenship, except when this citizenship was acquired by birth or marriage (CZE 17). A similar rule exists in the Slovak Republic (SLK 9(1)(b)), since July 2010, in response to the facilitated access to Hungarian citizenship for ethnic Hungarians from January 2011. In Lithuania there is an exception for cases where Lithuania concluded a treaty on dual citizenship (LIT 18(1)(2); 24(2); 26(2)).

Other countries provide in principle for automatic loss of citizenship by voluntary acquisition of a foreign citizenship, but make some exceptions. We list here a number of possible exceptions.

- a) The target person obtains permission to retain her or his citizenship before acquiring a foreign citizenship

This is for example the case in Austria. Obtaining permission to maintain Austrian citizenship depends on whether that is in the interest of Austria, whether retention of Austrian citizenship is dealt with reciprocity in the third country, and whether there is no harm to the interests or reputation of Austria. For minors also the best interests of the child are taken into account (AUT 28). However, the first condition gives the Austrian authorities a wide discretion. It has to be stressed that until 1999 the permission was only granted if an interest of the Austrian Republic required it to do so, a special interest of the individual involved to retain Austrian nationality was not sufficient.⁴² Since 1999 a person who has acquired Austrian citizenship by descent can also successfully apply for a permission to retain Austrian citizenship on grounds of special relevant reason in her or his family life.

Germany provides for the possibility of written consent from the German authorities to retain citizenship (GER 25(2)). If the applicant has her or his habitual residence abroad, the question is whether continuous ties with Germany are likely or not. Before 1 January 2000 this consent was seldom granted.⁴³ However, since 1 January 2000, not only public but also private interests are taken

³⁷ See also Pilgram 2011.

³⁸ See Annex 1; compare De Groot 1989, 282-287 for an older comparative overview of this ground for loss.

³⁹ See for more details on the developments in France : Vonk 2010, 117-142.

⁴⁰ See for more details on the developments in Italy: Vonk 2010, 173-194.

⁴¹ Danish citizenship is also lost automatically when the acquisition of foreign citizenship is the result of public service in another country (DEN 7(2)).

⁴² Mussger & Fessler 1996, 99-101, Zeyringer, nr. 77.

⁴³ Hailbronner et al 2010, 699, 700 (comment 37 on par. 25); Sturm: nr. 122.

into account (GER 25(2)). The number of granted permissions to retain German citizenship (*Beibehaltungsgenehmigungen*) for German citizens acquiring the citizenship of another EU Member State increased from considerably.⁴⁴

In Latvia, the parliament adopted on 9 May 2013 an Act modifying the Citizenship Act, which will allow Latvian citizens to acquire the citizenship of a Member State of the European Union, the European Free Trade Area or the NATO without losing Latvian citizenship. The same applies for the acquisition of the citizenship of some other countries, like Australia, Brazil and New Zealand.⁴⁵

b) The target person does not live abroad

In Spain, for example, persons of full age (*emancipados*) who have their habitual residence abroad, lose Spanish citizenship, if they voluntarily acquire the citizenship of another state, which was attributed to them before they reached full age (SPA 24(1)). The loss happens three years after the acquisition of the foreign citizenship (respectively reaching the age of majority) but can be avoided by a declaration to retain Spanish citizenship. *A fortiori* a Spanish citizen who resides in Spain does not lose her or his citizenship by voluntary acquisition of another citizenship.

c) The target person acquires the citizenship of a specific country

This exception is of paramount importance in Spain. In accordance with the Spanish constitution (Article 11(3)), and based on a number of bilateral treaties, the acquisition of the citizenship of Latin-American countries, Andorra, Philippines, Equatorial Guinea or Portugal is not sufficient ground for the loss of Spanish citizenship (SPA 24(2)(2)).⁴⁶ However, it should be stressed that this exception only applies to persons who are Spanish citizens by origin (*españoles de origen*).⁴⁷

Since August 2007 German citizenship is not lost anymore in case of a voluntary acquisition of the citizenship of another member state of the European Union, of Switzerland, or of a country which concluded a treaty with Germany on the acceptance of dual citizenship. However, there are currently no countries with which Germany has concluded such a treaty.

d) In case of war

Spanish citizenship is not lost by voluntary acquisition of another citizenship when Spain is at war (SPA 24(4)). The background of this provision is that that people cannot avoid military conscription in times of war by acquiring another citizenship (and thereby losing Spanish citizenship). Spanish citizenship can also not be renounced in times of war.

e) The target person is covered by one of the exceptions mentioned in the 1993 Second Protocol

In the Netherlands, Dutch citizenship is lost by voluntary acquisition of a foreign citizenship, unless target persons

- a) are born in the foreign country whose citizenship they acquire and they have habitual residence in that country;
- b) were living as a minor during a continuous period of at least five years in the country whose citizenship they wish to acquire;

⁴⁴ *Allgemeine Verwaltungsvorschrift zum Staatsangehörigkeitsrecht (StAR-VwV)* of 18 October 2000. Statistics for 2004 refer to situation of 30 June 2004. See *Antwort der Bundesregierung. Deutscher Bundestag*. Drucksache 15/3912, 12 October 2004.

⁴⁵ See: <http://www.saeima.lv/en/news/saeima-news/20957-saeima-adopts-provisions-on-recognition-of-dual-citizenship> (last visited on 28 May 2013).

⁴⁶ Aznar Sanchez 1977.

⁴⁷ See for more details on the developments in Spain: Vonk 2010, 195-225.

c) acquire the citizenship of a spouse or registered partner (NET 15).⁴⁸

Remarkably, also the new Slovak provision (SLO 17) enacted in 2010 provides that Slovak citizenship is not lost in case of acquisition of another citizenship by or during the marriage with a spouse, who already possesses this other citizenship.

f) The target person did not know that she or he possessed the citizenship of the state in question

This exception exists in Germany, according to a court decision by the Federal Administrative Court.⁴⁹ This court came to the conclusion that the loss of citizenship according to GER 25 only occurs if the person involved had knowledge or should have had knowledge about her or his German citizenship. If she or he has been unaware of his German citizenship when applying for a foreign citizenship, the loss of German citizenship does not occur. However, if target persons were aware of their German citizenship, but not of the consequences of voluntary acquisition when they applied for a foreign citizenship, they will lose their German citizenship.

Nearly all the above-mentioned exceptions are allowed by ECN 7(1)(a), if only because this article in a general way *allows* for voluntary acquisition of a foreign citizenship as a ground for loss, but it does not *oblige* states to provide for provisions based on this ground for loss. The only, but serious problems relate to provisions in Austria, Estonia,⁵⁰ Ireland and Spain, where citizens who have acquired citizenship otherwise than by descent are treated differently from so-called citizens 'of origin'. Discrimination of persons who have acquired citizenship by naturalisation violates ECN 5(2).

Finally, a note on procedures and some comments on the notion of 'voluntary acquisition'. First, on procedures, whereas in most cases the procedure for loss of citizenship is an automatic loss, or lapse, of citizenship, in Ireland and Latvia the authorities have a certain discretion with regard to the *withdrawal* of citizenship. According to Irish law, the Irish citizenship of a naturalised citizen can be revoked when the target person voluntarily acquires a foreign citizenship (IRE 19(1)(e)). The loss does not happen *ex lege*. This approach is also followed by Latvia. Latvian citizenship may be revoked by a court decision of a Regional Court, if a citizen has acquired the citizenship of another state without submitting an application regarding renunciation of Latvian citizenship (LAT 24(1)(1)).

Second, in those countries where voluntary acquisition is always, or under certain circumstances, a ground for loss of the citizenship, the notion of 'voluntary' needs further specification. In cases where the target person acquires another citizenship without any application and without any possibility to avoid the acquisition, the provisions in question certainly do not apply.⁵¹ In cases of obvious coercion they also do not apply. However, a more difficult situation arises when possession of citizenship is a requirement for economic activity, and persons are thus 'forced' to apply for a foreign citizenship because of economic circumstances? Whereas in the latter case Spain does not consider the acquisition of a foreign citizenship voluntary, Germany and Netherlands do consider this a legitimate ground for loss.⁵²

⁴⁸ See for more details on the developments in the Netherlands: Vonk 2010, 143-172.

⁴⁹ *Bundesverwaltungsgericht* 10.04.2008 (5 C 28.07).

⁵⁰ The 1992 Estonian Citizenship Act included a loss provision for voluntary acquisition. However, it was decided in a separate legal act not to apply the provisions of the Citizenship Act regarding loss due to voluntary acquisition of another citizenship. In 1993 this separate act was changed and it was decided that only citizens by birth will see no consequences after acquisition of another citizenship. The 1995 Citizenship Act continues this practice (EST 29).

⁵¹ See *Raad van State* (Netherlands) 10 October 2012 (LJN: BX 9688), to be published in *Rechtspraak Vreemdelingenrecht 2012* with a comment of De Groot.

⁵² See on Spain: Alvarez Rodríguez 1996, 86, on Germany: Hailbronner et al 2010, 687 (comment 14-16 on par. 25), on the Netherlands: De Groot 2003c, 367-368.

Third, with regard to the notion of ‘acquisition’, a related question is whether voluntary ‘acquisition’ also covers cases where the foreign citizenship is acquired *ex lege* but could be rejected? Whereas the answer is affirmative in the Netherlands, in line with a judgement by the Supreme Court⁵³, in countries such as Austria and Germany the answer is negative.⁵⁴

Again slightly different are cases where the target person acquires another citizenship by accepting a public office in another country, without the possibility to avoid this acquisition (for example until 2008 by accepting an appointment as professor at an Austrian university). The Netherlands nowadays does not consider such acquisition as voluntary, but in the past another interpretation was defended and applied by the Ministry of Justice.⁵⁵ Denmark has a special provision dealing with this type of acquisition (DEN 7) and shows that from a Danish perspective this type of acquisition is not covered by their general provision on loss due to voluntary acquisition. Austria also does not consider this type of acquisition of a foreign citizenship as voluntary.⁵⁶

To conclude, an analysis of changes across the Member States of the European Union shows a clear tendency to abolish voluntary acquisition as a ground for loss. By abolishing this loss provision these countries accept that a person may have such close ties with more than one country that the possession of more than one citizenship is justified. These countries accept that the voluntary acquisition of a foreign citizenship does not automatically mean that the genuine link with the state of one's original citizenship ceases immediately.

Other countries did not abolish voluntary acquisition as a general ground for loss of their citizenship, but introduced exceptions to the main rule. An example is the Netherlands where we find exceptions which are inspired by the 1993 Second Protocol to the 1963 Strasbourg Convention. Another example is Germany, which since 1 January 2000 increasingly often consented to retain German citizenship in case of voluntary acquisition of a foreign citizenship, particularly when this concerns German citizens residing in another EU member states. Since 2007 it is no longer required to obtain this permission as German citizenship is never lost in case of voluntary acquisition of the citizenship of another member state of the European Union or of Switzerland. In 1999 Austria introduced the possibility to allow Austrians by birth the retention of Austrian citizenship in case of voluntary acquisition of a foreign citizenship for special reasons in their personal or family circumstances.

C) Renunciation requirement as condition for naturalization

In the previous sub-paragraph we could observe, that eleven Member States provide for loss of citizenship in case of voluntary acquisition of another citizenship, although several of these countries provide for important exceptions. However, loss of citizenship due to voluntary acquisition of another citizenship may occur in: Austria, Czech Republic, Denmark, Estonia, Germany, Latvia, Lithuania, Netherlands, Slovakia and Spain.

In these countries the nationality legislation also provides for renunciation of a previous nationality as a condition for naturalization.⁵⁷ However exceptions are Estonia⁵⁸ and Slovakia, where no

⁵³ *Hoge Raad* 3 September 2004, RV 2004, Nr. 35 (at least under application of the Nationality Act of 1892, which was in force until 1985).

⁵⁴ Austria: Zeyringer, nr. 73; Germany: *Allgemeine Verwaltungsvorschrift zum Staatsangehörigkeitsrecht* of 18 October 2000, Nr. 25.1.3.

⁵⁵ See, against such an interpretation, De Groot 1984, 284-286.

⁵⁶ Zeyringer, nr. 73.

⁵⁷ See Annex 2 for more details.

⁵⁸ See on recent discussions in Estonia: <http://www.baltic-course.com/eng/legislation/?doc=75184> (last visited on 28 May 2013).

renunciation requirement exists as part of the conditions for naturalization. In Spain renunciation of a prior citizenship is required for naturalization⁵⁹, but the applicant has only to promise to do so. It is not controlled, whether a naturalized Spaniard has in fact renounced his or her prior citizenship.⁶⁰

Countries which require renunciation of a prior citizenship as a condition for naturalization use to make an exception in those cases where such requirement would be unreasonable.⁶¹ Germany does also not require such renunciation, if the applicant is citizen of another Member State of the European Union or of Switzerland (GER 10, 12). The Netherlands do not require renunciation of the prior citizenship if the applicant was born in the Netherlands or is married with a Netherlands citizen (NET 9).

Remarkable is the position of Bulgaria (BUL 12, 13) and Croatia (CRO 8), where the acquisition of a foreign citizenship is not a ground for loss of citizenship, but where a renunciation requirement exists for application for naturalization.

4. Possible developments in India

A) India accepts dual citizenship

If an Indian citizen acquires voluntarily European citizenship by naturalization in a Member State of the European Union, (s)he will always lose Indian citizenship, due to Section 9 of the Indian Citizenship Act. If a European citizen would like to acquire Indian citizenship by naturalization dual or multiple citizenship is also impossible, due to the renunciation requirement embedded in Section 5 of the Indian Citizenship Act.

However, if India would change policies and would accept dual nationality by removing voluntary acquisition of a foreign citizenship as ground for loss of Indian citizenship and by allowing naturalization in India or recovery of Indian citizenship without requiring that the other citizenship is renounced, the situation will still be complicated due to the different attitudes of Member States of the European Union in respect of this issue.

In those Member States which require for naturalization the renunciation of the original citizenship, Indian applicants for naturalization would still be confronted with the necessity to renounce Indian citizenship in order to acquire the citizenship of the Member State involved by naturalization. This would be the case in Austria, Bulgaria, Croatia, Czech Republic, Denmark, Germany, Latvia, Lithuania, and the Netherlands. Formally, that would also be the case in Spain, but in practice the renunciation requirement is not implemented in that country. In the Netherlands, the renunciation requirement does not apply, if 1) the applicant involved was born in the Netherlands or 2) is married with a Netherlands spouse.

In those Member States which still provide for the loss of citizenship in case of voluntary acquisition of a foreign citizenship persons of Indian origin who acquired the citizenship of the Member State involved, would be confronted with the loss of that citizenship and consequently the loss of European citizenship, if they (re)acquire (recover) Indian citizenship. This would always be the case in Austria, Czech Republic, Denmark, Estonia, Germany, Ireland, Latvia, Lithuania, Netherlands, Slovakia and Spain. In the Netherlands, it would depend on the fact whether or not 1) the person involved was born on Indian territory and lives there during the acquisition of Indian citizenship, 2) the person involved was living during a period of five years in India during his or her minority; or 3) whether the person involved is married with an Indian citizen at the moment of acquisition of Indian citizenship.

⁵⁹ Except for citizens of Latin American countries, Andorra, Philippines, Equatorial Guinea or Portugal.

⁶⁰ De Groot/ Vink 2008, 77,78. See also Chopin 2006, 251 and Alvarez Rodriguez 1996, 197.

⁶¹ This is in line with Art. 16 European Convention on Nationality (CETS 166).

citizenship. If one of these three conditions is fulfilled Netherlands citizenship would not be lost by the acquisition or recovery of Indian citizenship.

In relationship with following fourteen Member States a full acceptance of dual or multiple nationality would be the consequence, if India would always accept dual citizenship: Belgium, Cyprus, Finland, France, Greece, Hungary, Italy, Luxembourg, Malta, Poland, Portugal, Romania, Sweden and the United Kingdom.

B) India increases rights of Overseas Citizen of India

As already mentioned above, can the term “Overseas Citizen of India” cause confusion, if another State would conclude that an OCI has acquired a real citizenship of India. If the other State provides for the loss of citizenship in case of voluntary acquisition of another citizenship, this could lead to the conclusion that the citizenship of that other State is lost. However, we witnessed above, that an OCI does not acquire all rights linked to Indian citizenship, even if an OCI resides in India. It is of particular importance, that an OCI does even in case of residence in India not have voting rights, cannot have public functions en needs a special permit in order to travel to certain parts of India.

An interesting and challenging question is, what happens if India would increase the rights of OCI. It is under international law not precisely clear where the borderline is between on the one side a facilitation status granted to co-ethnics or to previous citizens and their descendants and on the other side the status of citizenship itself. This borderline is not only relevant for the exercise or non-exercise of typical citizenship rights in the State involved, but has also practical legal consequences for the application of grounds for acquisition and loss of the citizenship of other States. Of particular importance is the potential application of the just mentioned rule that voluntary acquisition of a foreign citizenship is a ground for loss of the citizenship of a State. Due to the principle of autonomy of States in citizenship matters, it is up the each State to determine, where the borderline is crossed between a facilitation status of co-ethnics and a status which qualifies as citizenship.

Whether a certain status is labeled as “citizenship” or not, may play a certain role. However, what really matters is the content of the status, in particular which legal consequences are attached to the status involved. To put it differently, the proposal pending in the Indian parliament to replace the term “Overseas Citizen of India” by the expression “Overseas Indian Cardholder” will –when adopted – certainly avoid unnecessary confusion, but what matters are still the consequences attached to the possession of an “Overseas Indian Card”.

5. Concluding remarks

At the moment, dual citizenship in principle is not an issue in the relationship between India and the European Union. This would partly change if India would accept dual citizenship due after naturalization. If that would happen, it would depend on attitude of the Member State of the European Union involved towards dual nationality after naturalization, whether dual citizenship would be possible or not. We identified fourteen Member States, where dual nationality after naturalization is always accepted: Belgium, Cyprus, Finland, France, Greece, Hungary, Italy, Luxembourg, Malta, Poland, Portugal, Romania, Sweden and the United Kingdom. Furthermore, we observed that an increase of the rights attached to the status of OCI may cause the risk that other States, which still apply voluntary acquisition of a foreign citizenship as ground for loss for their citizenship, would conclude that the registration as OCI has to be classified as acquisition of a foreign citizenship.

Bibliography

- Agrawala, S.K. / M. Koteswara Rao (1990), Nationality and International Law in Indian perspective, in : Ko Swan Sik (ed.), *Nationality and International Law in Asian perspective*, Dordrecht/ Boston/ London : Martinus Nijhoff Publishers.
- Alvarez Rodriguez , Aurelia (1996), *Guía de la nacionalidad española*, 2nd edition, Madrid: Ministerio de Trabajo y Asuntos Sociales.
- Aznar Sanchez , Juan (1977), *La doble nacionalidad: Doctrina, convenios, legislacion, jurisprudencia*, Madrid : Editorial Montecorvo.
- Chopin, Isabelle (2006), Administrative practices in the acquisition of nationality, in : Rainer Bauböck/ Eva Ersboll/ Kees Groenendijk/ Harald Waldrauch (ed.), *Acquisition and loss of nationality, Policies and trends in 15 European Countries, Volume 1: Comparative Analyses*, Amsterdam : Amsterdam University Press 2006, 221-268.
- De Groot, Gerard-René (1984), Wijziging van het Oostenrijkse nationaliteitsrecht, in: *Personeel Statuut* 1984, 18-27.
- De Groot, Gerard-René (1989), *Staatsangehörigkeitsrecht im Wandel. Eine rechtsvergleichende Studie über Erwerbs- und Verlustgründe der Staatsangehörigkeit*, Köln: Heymanns 1989.
- De Groot, Gerard-René (2003a), The loss of nationality; a critical inventory, in: David.A. Martin Kay Hailbronner. *Rights and Duties of Dual Nationals: Evolution and Prospects*, Kluwer Law International, The Hague/London/Boston 2003, 201-299.
- De Groot, Gerard-René (2003b), The background of the changed attitude of European States in respect to multiple nationality, in: Atsushi Kondo/ Charles Westin (ed), *New concepts of citizenship: Residential/ Regional citizenship and dual nationality/ Identity*, Stockholm: CEIFO 2003, 99-119.
- De Groot, Gerard-René (2003c), *Handboek Nieuw Nederlands Nationaliteitsrecht*, Deventer: Kluwer.
- De Groot, Gerard-René (2005), *Towards a European nationality law/ Vers un droit européen de nationalité*, inaugurale Inaugural lecture delivered on 13 November 2003 on the occasion of the acceptance of the Pierre Harmel chair of professeur invité at the Université de Liège, Maastricht: Unigraphic 2004, 62 p.; also published in the *Electronic Journal of Comparative Law* 2004; see for an updated version in Hildegard Schneider (ed.), *Migration, integration and citizenship, A challenge for Europe's future*, Volume I, Maastricht: Forum Maastricht 2005, 13-54.
- De Groot, Gerard-René (2012), "Nationality," in Jan Smits (ed.), *Encyclopaedia of Comparative Law*, second edition, London: Edward Elgar 2012, 600-619.
- De Groot, Gerard-René/ Anja Seling (2011), The consequences of the Rottmann judgment on Member State autonomy - The European Court of Justice's avant-gardism in nationality matters, *European Constitutional Law Review* 2011, p. 150-160. Also published in: Jo Shaw (ed.), *Has the European Court of Justice Challenged Member State Sovereignty in Nationality Law?* (RSCAS Working Paper 2011/62), Florence: EUI 2011, 27-31.
- De Groot, Gerard-René/ Maarten P. Vink (2008), *Meervoudige nationaliteit in Europees perspectief, Een landenvergelijkend overzicht*, 's Gravenhage: Adviescommissie voor Vreemdelingenzaken.
- De Groot, Gerard-René/ Maarten P. Vink (2010), *Loss of citizenship: Trends and regulations in Europe*, Comparative Report, RSCAS/EUDO-CIT-Comp. 2010/4, also available at http://eudo-citizenship.eu/docs/loss_paper_updated_14102010.pdf
- De Groot, Gerard-René/ Maarten P. Vink (2013), *The relationship between citizenship and residence in the citizenship laws of the Member States of the European Union*, paper prepared for the EU-India project.

- Fransman, Laurie (2011), *Fransman's British Nationality Law*, 3rd edition, Bloomsbury Professional.
- Goodman, Sarah Wallace (2010), *Naturalisation Policies in Europe: Exploring Patterns of Inclusion and Exclusion*, RSCAS/EUDO-CIT-Comp. 2010/7, also available at <http://eudo-citizenship.eu/docs/7-Naturalisation%20Policies%20in%20Europe.pdf>
- Hailbronner, Kay/ Günter Renner/ Hans-Georg Maassen (2010), *Staatsangehörigkeitsrecht*, 5th edition, München : Verlag C.H. Beck.
- Hecker, Hellmuth (1965), *Indien, Pakistan, Nepal, Geltende Staatsangehörigkeitsgesetze* herausgegeben von der Forschungsstelle für Völkerrecht und ausländisches öffentliches Recht der Universität Hamburg, volume 26, Frankfurt am Main/ Berlin : Alfred Metzner Verlag.
- Mussger, Herbert/ Peter Fessler (1996), *Österreichisches Staatsbürgerschaftsrecht*, Wien : Juridica Verlag.
- Parry, Clive (1957), *Nationality and citizenship laws of the Commonwealth and the Republic of Ireland*, London.
- Pilgram, Lisa (2011), *International law and European nationality laws*, RSCAS/EUDO-CIT-Comp. 2011/1, available at <http://www.eudo-citizenship.eu/docs/Pilgram.pdf>
- Proudhon. J.B.V. (1848), *Traité sur l'état des personnes et sur le titre préliminaire du Code civil*, volume 1, 2nd edition (1st edition 1809), Paris.
- Roy, Anupama (2010), *Mapping citizenship in India*, Oxford: Oxford University Press.
- Sturm, Fritz (n.d.), *Allemagne*, in: C. L. Closset & M. J. Verwilghen (eds.), *Jurisclasseur Nationalité* (Loose-leaf ed.). Paris: Editions Techniques.
- Vink, Maarten P./ Gerard-René de Groot (2010), *Birthright Citizenship: Trends and Regulations in Europe*, Comparative Report, RSCAS/EUDO-CIT-Comp. 2010/5, also available on <http://eudo-citizenship.eu>
- Vonk, Olivier Willem (2010), *Dual nationality in the European Union: A study on changing norms in public and private international law and in the municipal laws of four EU Member States*, Thesis EUI Florence.
- Weiss, André (1907), *Droit international privé*, volume 1, 2nd edition, Paris: Librairie de la Société du Recueil Sirey et du Journal du Palais.
- Zeyringer, W. (n.d.), *Autriche*, in: C. L. Closset & M. J. Verwilghen (eds.), *Jurisclasseur Nationalité* (Loose-leaf ed.). Paris: Editions Techniques.

Annex 1. Voluntary acquisition of a foreign citizenship as a ground for loss of citizenship in Europe

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
Austria	AUT 27	Lapse	Person acquires citizenship of another country on the basis of an application, a declaration or an explicit expression of consent, and has not obtained permission to retain citizenship. Permission to retain citizenship may be granted if the person has acquired citizenship by descent and special reasons exist that are related to the person's private or family life, or -in case the person is a minor- if this is in the interests of the child.	1998, 2005
Belgium	no provision	n.a.	n.a.	2006 [2008]
Bulgaria	no provision	n.a.	n.a.	No major changes
Croatia	no provision	n.a.	n.a.	No major changes
Cyprus	no provision	n.a.	n.a.	No major changes
Czech Republic	CZE 17	Lapse	Person acquires citizenship of another country otherwise than by birth or marriage.	1993, 2003
Denmark	DEN 7(1)	Lapse	Person acquires citizenship of another country by application or explicit consent.	No major changes
Estonia	EST 29	Lapse	Person voluntarily acquires citizenship of another country.	1992, 1995
Finland	no provision	n.a.	n.a.	2003 (repealed)
France	no provision	n.a.	n.a.	No major changes
Germany	GER 25	Lapse	Person acquires citizenship of another country by naturalisation and does not obtain permission to retain German citizenship (discretionary). Provision does not apply if person acquires citizenship of an EU Member State or Switzerland.	2000, 2007

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
Greece	no provision	n.a.	n.a.	No major changes
Hungary	no provision	n.a.	n.a.	No major changes
Iceland	no provision	n.a.	n.a.	No major changes
Ireland	IRE 19(1)(e)	Withdrawal	Person voluntarily acquires citizenship of another country otherwise than by marriage and acquired Irish citizenship by naturalisation.	No major changes
Italy	no provision	n.a.	n.a.	No major changes
Latvia	LAT 24(1)(1)	Withdrawal	Person acquires citizenship of another country without submitting an application to renounce Latvian citizenship.	1994, 1995, 1998
Lithuania	LIT 24(2), 26(2)	Lapse	Person acquires citizenship of another country (there are exceptions). Person should inform Lithuania within 2 months of acquisition of citizenship of the other country).	1991, 2002, 2006, 2008, 2010
Luxembourg	no provision	n.a.	n.a.	No major changes
Macedonia	no provision	n.a.	n.a.	No major changes
Malta	no provision	n.a.	n.a.	No major changes
Moldova	no provision	n.a.	n.a.	No major changes
Montenegro	MON 24(1)	Withdrawal	Person voluntarily acquires citizenship of another country. Provision does not apply when a dual citizenship agreement exists with that country.	2008
Netherlands	NET 15(1)(a), 16(1)(e)	Lapse	Person voluntarily acquires citizenship of another country. Provision does not apply if person is born and resides in another country, or resided in another country for 5 years before majority, or is married to a citizen of another country (adults), or his/her parent is citizen of the Netherlands (minors), or acquired citizenship by birth in the Netherlands. No exception to main rule if Article 1 of 1963 Strasbourg Convention applies.	1985, 2003

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
Norway	NOR 23	Lapse	Person voluntarily acquires citizenship of another country.	2006
Poland	no provision	n.a.	n.a.	1998 (repealed)
Portugal	no provision	n.a.	n.a.	No major changes
Romania	no provision	n.a.	n.a.	No major changes
Serbia	no provision	n.a.	n.a.	No major changes
Slovakia	SLK 9(1)(b)	Lapse	Person acquires citizenship of another country otherwise than by birth or marriage.	2010
Slovenia	no provision	n.a.	n.a.	No major changes
Spain	SPA 24(1)	Lapse	Person resides abroad, acquires citizenship of another country and does not submit a declaration to retain citizenship within three years. Provision does not apply to citizens of Latin American countries, Andorra, the Philippines, Equatorial Guinea or Portugal. Provision does not apply in time of war.	1990, 2002
Sweden	no provision	n.a.	n.a.	2001 (repealed)
Switzerland	no provision	n.a.	n.a.	No major changes
Turkey	no provision	n.a.	n.a.	No major changes
United Kingdom	no provision	n.a.	n.a.	No major changes

Source: <http://eudo-citizenship.eu/databases/modes-of-acquisition?p=&application=&search=1&modeby=idmode&idmode=A05>

Annex 2. Renunciation requirement and other conditions for ordinary naturalization in Europe

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
Austria	AUT 10(1), 20(3), 20(4)	Naturalisation (discretionary)	Person has been resident in Austria for 10 years, of which 5 years with a permanent resident permit immediately before the application. Other conditions: no criminal convictions, positive attitude towards Austria, no danger to public peace, order and security, secure income, no relations to other states that would harm the interests of the country, renunciation or automatic loss of citizenship of another country (unless legally impossible or unreasonable due to high fees), proficiency in language of the country (certification), knowledge of Austrian democratic order and history and of the federal province responsible for the administration of naturalisation (citizenship test).	1985, 1999, 2006, 2010
Belgium	BEL 12bis(1)(2)	Declaration	Person has been resident in Belgium for at least 5 years. Other conditions: proficiency in language of the country, no convictions for serious criminal offence, adequate social integration and work participation	2000, 2006, 2012
	BEL 12bis(1)(4)	Declaration	Person has been resident in Belgium for at least 5 years. Other conditions: no convictions for serious criminal offence and demonstration that he/she cannot work or is retired	
	BEL 12bis(1)(5)	Declaration	Persons has been resident in Belgium for at least 10 years. Other conditions: proficiency in language of the country (certification), no convictions for serious criminal offence, and adequate participation in local community.	

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
Bulgaria	BUL 12, 13	Naturalisation (discretionary)	Person has had permanent residence in Bulgaria for at least 5 years prior to the application. Other conditions: no convictions of intentional crime and no criminal proceedings initiatives against the person, source of income and occupation sufficient for support, command of language of Bulgaria, and renunciation of another citizenship.	2001
Croatia	CRO 8	Naturalisation (entitlement)	Person has been resident in Croatia for 5 years immediately before the application. Other conditions: renunciation or automatic loss of another citizenship, unless the person is stateless (a statement is sufficient if the other country does not allow renouncing citizenship, or places conditions which cannot be fulfilled), proficient in language of Croatia, respect for the legal order, customs and culture of the country.	1991
Cyprus	CYP 111, Schedule 3 Article 1	Naturalisation (discretionary)	Person was resident in Cyprus for a total period of 5 years within a period of 7 years, of which the year immediately prior to the submission of the application must be continuous. By way of exception, certain categories of persons (e.g. domestic workers, students) must have been resident in Cyprus for a total period of 7 years before the submission of the application, of which the last 12 months should be continuous. Other conditions: good character, intention to remain in Cyprus or at service of Cyprus, mental capacity written and published loyalty oath to the country.	No major changes

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
Czech Republic	CZE 7	Naturalisation (discretionary)	Person has been resident in the Czech Republic for 5 years and has a permanent residence permit. Other conditions: renunciation or automatic loss of citizenship of another country, clear criminal record for 5 years, proficiency in language of the Czech Republic, fulfilment of obligations under immigration law and other laws (e.g. payment of health and social security insurance, taxes etc).	1993, 1996, 1999, 2003
Denmark	DEN 6	Naturalisation (discretionary)	Person has been resident in Denmark for 9 years with a permanent residence permit at the time of application. Other conditions: no receipt of social assistance within the last 10 years, no due debts to the state, no criminal indictments or convictions, language certification, knowledge of society (citizenship test), renunciation or automatic loss of prior citizenship, and oath of loyalty to society, laws and legal principles of Denmark.	1991, 1997, 1999, 2002, 2006, 2008
Estonia	EST 6	Naturalisation (discretionary)	Person has been resident in Estonia for 8 years, of which the last 5 years permanently. Other conditions: permanent legal income, knowledge of the language of Estonia, knowledge of the Constitution and the Citizenship Act (citizenship test), and loyalty to the country.	1995
Finland	FIN 13	Naturalisation (discretionary)	Person has been resident in Finland for 5 years uninterrupted, or 7 years since the age of 15 with the last 2 years uninterrupted. (In both cases the residence requirement can be shortened with 1 year if applicant meets language requirements.) Other conditions: not committed for a punishable act, no restraining order has been issued, has not materially failed to provide maintenance or meet pecuniary obligations under public law, provide reliable account of livelihood, proficient in one of the languages of Finland (language test).	2003, 2011

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
France	FRA 21-16, 21-17	Naturalisation (discretionary)	Person has been resident in France for 5 years. (Residence requirement may be waived for certain categories including refugees.) Other conditions: good character, no criminal convictions of a certain kind, assimilation (especially language skills and knowledge of the rights and duties attached to French citizenship).	1993, 2003
Germany	GER 10, 12	Naturalisation (entitlement)	Person has been resident in Germany for 8 years and is entitled to permanent residence. Other conditions: express commitment to the Constitution (declaration of loyalty), no activities hostile to the Constitution, ability to support oneself and one's family without social security or unemployment benefit, no criminal convictions (minor offenses excepted), renunciation or automatic loss of citizenship of another country (unless this is legally impossible or unreasonable), proficient in German language, and knowledge of the German legal and societal system.	1991, 1993, 2000, 2005
Greece	GRE 5, 5A, 5B	Naturalisation (discretionary)	Person has been permanently resident in Greece for 7 years. Other conditions: no criminal record of certain crimes, stable income, sufficient knowledge of the language, history and culture of Greece.	1993, 2004, 2010
Hungary	HUN 4(1)	Naturalisation (discretionary)	Person has been resident in Hungary for 8 years with a settlement permit. Other conditions: clean criminal record, self-subsistence, knowledge of constitutional issues (citizenship test), and no threat to Hungarian interests.	1993
Iceland	ICE 7	Naturalisation (discretionary)	Person has been resident in Iceland for 7 years. Other conditions: no criminal convictions, capable of working and have a good reputation, proficiency in Icelandic language (language test), property not subject to encumbrance or liens, capable of self-support, and has not received a support grant from a local authority for the past 3 years.	1998, 2009

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
ICE 9(5)				
Ireland	IRE 15	Naturalisation (discretionary)	Person is an adult, or minor who was born in Ireland, and was resident in Ireland for 5 out of the last 9 years, including the year preceding the application. Other conditions: good character, intention to continue to reside in Ireland, declaration of fidelity and loyalty to the country.	1986, 2004
Italy	ITA 9(1)f	Naturalisation (discretionary)	Person has been resident in Italy for 10 years. Other conditions: no problematic criminal record and sufficient income in the last 3 years.	1992
Latvia	LAT 10, 11, 12	Naturalisation (discretionary)	Person has been permanently resident in Latvia for 5 years. Other conditions: proficiency in language of Latvia, knowledge of basic principles of the Constitution, national anthem and history of the country, legal income and no due taxes, pledge of loyalty to Latvia, renunciation or automatic loss of citizenship of another country, no further restrictions (see LAT 11).	1994, 1998
Lithuania	LIT 18	Naturalisation (discretionary)	Person has legally resided in Lithuania for the last 10 years and has the right of permanent residence. Other conditions: proficiency in language of Lithuania, legal source of support, knowledge of basic provisions of the Constitution, renunciation or automatic loss of citizenship of another country, no circumstances by reason of which citizenship shall not be granted, e.g. person committed international crimes such as aggression, genocide, crimes against humanity and war crime.	1991, 2002, 2010

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
Luxembourg	LUX 6	Naturalisation (discretionary)	Person has been resident in Luxembourg for 7 years before the application. Other conditions: proof of sufficient active and passive knowledge of at least 1 of 3 national languages in addition to spoken knowledge of the Luxembourg language, follow at least 3 citizenship courses, absence of a criminal record of a certain kind.	1986, 2001, 2008
Macedonia	MAC 7	Naturalisation (entitlement)	Person has been permanently resident in Macedonia for at least 8 years. Other conditions: housing and permanent source of income, no convictions in Macedonia or another country of which the person is a national for committing a crime that carries a prison sentence of 1 year or more, no criminal procedure initiated in either of those countries, not sentenced to a measure prohibiting residence in Macedonia, no threat to national security or defense, knowledge of language of Macedonia and oath of loyalty, renunciation or automatic loss of citizenship of another country.	1992, 2004
Malta	MAL 10(1)	Naturalisation (discretionary)	Person has been resident in Malta for at least 5 of the past 7 years preceding the application. Other conditions: adequate knowledge of Maltese or English language, good character and deemed suitable to be a citizen.	1989, 2000
Moldova	MOL 17(1)(b)	Naturalisation (discretionary)	Person has been resident in Moldova for 10 years. Other conditions: knowledge of the official language and the provisions of the Constitution of Moldova (citizenship test), legal sources of income, and automatic loss or renunciation of citizenship of another country (unless this is impossible or cannot reasonably be requested).	1991, 1994, 1996, 2000

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
Montenegro	MON 8	Naturalisation (discretionary)	Person has been resident in Montenegro for 10 years uninterrupted immediately before the application. Other conditions: renunciation or automatic loss of citizenship of another country, no convictions for committing a crime that carries a prison sentence of 1 year or more, housing and source of income sufficient for material and social welfare, command of language of Montenegro, no threat to the security of the country, fulfilled tax and other legal obligations.	2008, 2010
Netherlands	NET 8(1)	Naturalisation (entitlement)	Person has been resident in the Netherlands for 5 years immediately before the application and there are no objections against indefinite residence in the country. Other conditions: no threat to public order, public decency or safety, proficiency in Dutch language (certification), knowledge of Dutch society (citizenship test), renunciation or automatic loss of citizenship of another country (with substantial exceptions).	1985, 2003, 2009
Norway	NOR 7	Naturalisation (discretionary)	Person is at least 12 years of age, has resided in Norway for a total of 7 years in the last 10 years with a residence or work permit of at least 1 year's duration, and naturalisation is not deemed contrary to the interests of national security or to foreign policy considerations. Other conditions: training in language of Norway, not sentenced to a penalty or special criminal sanction, and release from another citizenship (unless legally or practically impossible or for other reasons seems unreasonable).	2005

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
Poland	POL 30(1)(1), 30(2), 31(2)	Naturalisation (entitlement)	Person has been resident in Poland for 3 years with a permanent residence permit (or a long term EU residence permit) and has a stable and regular source of income and a 'legal title to inhabitable premises'. Other conditions: language certification and no threat to the external security or defense of the state or to the public security and order	2012; 1997, 2005, 2006, 2012
	POL 18, 19	Naturalisation (discretionary)	No specific requirements can be found in the law. Pursuant to POL 21(1), residence in Poland is not required.	
Portugal	POR 6(1)	Naturalisation (entitlement)	Person has been resident in Portugal for 6 years. Other conditions: sufficient knowledge of Portuguese language, existence of an effective link with the national community, no convictions for committing a crime that carries a prison sentence of 3 years or more.	2006
Romania	ROM 8(1), 8(3)	Naturalisation (discretionary)	Person has been resident in Romania for 8 years. Other conditions: good behaviour and loyalty to Romania, no threat to national security, sufficient resources to support him/herself, proficiency in Romanian language and knowledge of the country's culture, history, Constitution and national anthem.	1991, 2003, 2008
Serbia	SER 14, 15	Naturalisation (discretionary)	Person has been uninterruptedly resident in Serbia for at least 3 years. Other conditions: legal capacity, renunciation or automatic loss of citizenship of another country (unless legally impossible or unreasonable), written statement of loyalty.	2004, 2007
Slovakia	SLK 7(1)	Naturalisation (discretionary)	Person has been resident in Slovakia for 8 consecutive years immediately prior to the application or 10 years with a permanent residence permit. Other conditions (not exhaustive):	2007

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
			good character, no criminal procedure initiated against the person, reasonable knowledge of language and culture of Slovakia, fulfilled tax and other legal obligations.	
Slovenia	SLN 10-15	Naturalisation (discretionary)	Person has been resident in Slovenia for 10 years, of which 5 were continuous, and with a 'settled status' immediately before the application. Other conditions: evidence of renunciation of citizenship of another country (unless the person is stateless or when renunciation is legally impossible or unreasonable), means of subsistence and settled tax obligations, no criminal record, does not pose a threat to public order, security or national defence, knowledge of Slovenian language and oath to respect the free democratic constitutional order of Slovenia.	1994, 2002, 2006
Spain	SPA 21(2), 22(104), 23	Naturalisation (entitlement)	Person has been resident in Spain for 10 years immediately prior to the application. Other conditions: good conduct, adequate social integration, oath of loyalty to the King and obedience to the constitution and the laws, renunciation of another citizenship (except for citizens of Latin American countries, Andorra, Philippines, Equatorial Guinea or Portugal) and inscription in the Civil Registry. Denial of citizenship must be based on reasons of public order and national interest.	1990
Sweden	SWE 11	Naturalisation (discretionary)	Person has been resident in Sweden for 5 years with a permanent residence permit. Other conditions: proof of identity and has led and can be expected to lead a respectable life.	1985, 1992, 1995, 1999, 2000, 2001

<i>Country</i>	<i>Article in law</i>	<i>Procedure</i>	<i>Conditions</i>	<i>Changes since 1985</i>
Switzerland	SWI 12, 14	Naturalisation (discretionary)	Person has resided in Switzerland for 12 years (3 of these must have been in the 5 years preceding the application). Other conditions: absence of a criminal record, integration into the Swiss way of life and familiar with Swiss customs and traditions, and good character on cantonal level. Various cantons also require an oath of allegiance at the citizenship ceremony.	1990, 2004, 2007
Turkey	TUR 11	Naturalisation (discretionary)	Person has been resident in Turkey for 5 years with intent to settle. Other conditions: good morals, not have a health condition that is dangerous to the person's surrounding, sufficient knowledge of the Turkish language, income requirement, not pose a threat to national security and public order.	2009
United Kingdom	UK 6(1), 40-42B	Naturalisation (discretionary)	Person has been resident in the UK for 5 years. Other conditions: good character, sufficient knowledge of one of the languages of the country, sufficient knowledge about life in the UK, intention to have principal home in the country and to continue residence in or service for the UK, oath of allegiance at citizenship ceremony.	2002, 2009

Source: <http://eudo-citizenship.eu/databases/modes-of-acquisition?p=&application=&search=1&modeby=idmode&idmode=A06>