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ภาคผนวก

CONVENTION ON CERTAIN QUESTIONS RELATING TO THE CONFLICT OF  
NATIONALITY LAWS 1930

**CONSIDERING** that it is of importance to settle by international agreement questions relating to the conflict of nationality laws;

**BEING CONVINCED** that it is in the general interest of the international community to secure that all its members should recognise that every person should have a nationality and should have one nationality only;

**RECOGNISING** accordingly that the ideal towards which the efforts of humanity should be directed in this domain is the abolition of all cases both of statelessness and of double nationality;

**BEING OF OPINION** that, under the economic and social conditions which at present exist in the various countries, it is not possible to reach immediately a uniform solution of all the abovementioned problems;

**BEING DESIROUS**, nevertheless, as a first step toward this great achievement, of settling in a first attempt at progressive codification, those questions relating to the conflict of nationality laws on which it is possible at the present time to reach international agreement,

**HAVE DECIDED** to conclude a Convention and have for this purpose appointed as their Plenipotentiaries:

[Names of plenipotentiaries not reproduced here.]

**WHO**, having deposited their full powers found in good and due form,

**HAVE AGREED AS FOLLOWS:**

CHAPTER I

GENERAL PRINCIPLES

Article 1

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It is for each State to determine under its own law who are its nationals. This law shall be recognised by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognised with regard to nationality.



## Article 2

Any question as to whether a person possesses the nationality of a particular State shall be determined in accordance with the law of that State.

## Article 3

Subject to the provisions of the present Convention, a person having two or more nationalities may be regarded as its national by each of the States whose nationality he possesses.

## Article 4

A State may not afford diplomatic protection to one of its nationals against a State whose nationality such person also possesses.

## Article 5

Within a third State, a person having more than one nationality shall be treated as if he had only one. Without prejudice to the application of its law in matters of personal status and of any conventions in force, a third State shall, of the nationalities which any such person possesses, recognise exclusively in its territory either the nationality of the country in which he is habitually and principally resident, or the nationality of the country with which in the circumstances he appears to be in fact most closely connected.

## Article 6

Without prejudice to the liberty of a State to accord wider rights to renounce its nationality, a person possessing two nationalities acquired without any voluntary act on his part may renounce one of them with the authorisation of the State whose nationality he desires to surrender. This authorisation may not be refused in the case of a person who has his habitual and principal residence abroad, if the conditions laid down in the law of the State whose nationality he desires to surrender are satisfied.

## CHAPTER II

## EXPATRIATION PERMITS

## Article 7

In so far as the law of a State provides for the issue of an expatriation permit, such a permit shall not entail the loss of the nationality of the State which issues it,

unless the person to whom it is issued possesses another nationality or unless and until he acquires another nationality.

An expatriation permit shall lapse if the holder does not acquire a new nationality within the period fixed by the State which has issued the permit. This provision shall not apply in the case of an individual who, at the time when he receives the expatriation permit, already possesses a nationality other than that of the State by which the permit is issued to him. The State whose nationality is acquired by a person to whom an expatriation permit has been issued, shall notify such acquisition to the State which has issued the permit.

### CHAPTER III

#### NATIONALITY OF MARRIED WOMEN

##### Article 8

If the national law of the wife causes her to lose her nationality on marriage with a foreigner, this consequence shall be conditional on her acquiring the nationality of the husband.

##### Article 9

If the national law of the wife causes her to lose her nationality upon a change in the nationality of her husband occurring during marriage, this consequence shall be conditional on her acquiring her husband's new nationality.

##### Article 10

Naturalisation of the husband during marriage shall not involve a change in the nationality of the wife except with her consent.

##### Article 11

The wife who, under the law of her country, lost her nationality on marriage shall not recover it after the dissolution of the marriage except on her own application and in accordance with the law of that country. If she does recover it, she shall lose the nationality which she acquired by reason of the marriage.

### CHAPTER IV

#### NATIONALITY OF CHILDREN

##### Article 12

Rules of law which confer nationality by reason of birth on the territory of a State shall not apply automatically to children born to persons enjoying diplomatic immunities in the country where the birth occurs. The law of each State shall permit children of consuls *de carrière*, or of officials of foreign States charged with official missions by their Governments, to become divested, by repudiation or otherwise, of the nationality of the State in which they were born, in any case in which on birth they acquired dual nationality, provided that they retain the nationality of their parents.

#### Article 13

Naturalisation of the parents shall confer on such of their children as, according to its law, are minors the nationality of the State by which the naturalisation is granted. In such case the law of that State may specify the conditions governing the acquisition of its nationality by the minor children as a result of the naturalisation of the parents. In cases where minor children do not acquire the nationality of their parents as the result of the naturalisation of the latter, they shall retain their existing nationality.

#### Article 14

A child whose parents are both unknown shall have the nationality of the country of birth. If the child's parentage is established, its nationality shall be determined by the rules applicable in cases where the parentage is known. A foundling is, until the contrary is proved, presumed to have been born on the territory of the State in which it was found.

#### Article 15

Where the nationality of a State is not acquired automatically by reason of birth on its territory, a child born on the territory of that State of parents having no nationality, or of unknown nationality, may obtain the nationality of the said State. The law of that State shall determine the conditions governing the acquisition of its nationality in such cases.

#### Article 16

If the law of the State, whose nationality an illegitimate child possesses, recognizes that such nationality may be lost as a consequence of a change in the civil status of the child (legitimation, recognition), such loss shall be conditional on the

acquisition by the child of the nationality of another State under the law of such State relating to the effect upon nationality of changes in civil status.

#### CHAPTER V

#### ADOPTION

##### Article 17

If the law of a State recognises that its nationality may be lost as the result of adoption, this loss shall be conditional upon the acquisition by the person adopted of the nationality of the person by whom he is adopted, under the law of the State of which the latter is a national relating to the effect of adoption upon nationality.

#### CHAPTER VI

#### GENERAL AND FINAL PROVISIONS

##### Article 18

The High Contracting Parties agree to apply the principles and rules contained in the preceding Articles in their relations with each other, as from the date of the entry into force of the present Convention. The inclusion of the abovementioned principles and rules in the Convention shall in no way be deemed to prejudice the question whether they do or do not already form part of international law. It is understood that, in so far as any point is not covered by any of the provisions of the preceding Articles, the existing principles and rules of international law shall remain in force.

##### Article 19

Nothing in the present Convention shall affect the provisions of any treaty, convention or agreement in force between any of the High Contracting Parties relating to nationality or matters connected therewith.

##### Article 20

Any High Contracting Party may, when signing or ratifying the present Convention or acceding thereto, append an express reservation excluding any one or more of the provisions of Articles 1 to 17 and 21.

The provisions thus excluded cannot be applied against the Contracting Party who has made the reservation nor relied on by that Party against any other Contracting Party.

#### Article 21

If there should arise between the High Contracting Parties a dispute of any kind relating to the interpretation or application of the present Convention and if such dispute cannot be satisfactorily settled by diplomacy, it shall be settled in accordance with any applicable agreements in force between the parties providing for the settlement of international disputes. In case there is no such agreement in force between the parties, the dispute shall be referred to arbitration or judicial settlement, in accordance with the constitutional procedure of each of the parties to the dispute. In the absence of agreement on the choice of another tribunal, the dispute shall be referred to the Permanent Court of International Justice, if all the parties to the dispute are parties to the Protocol of 16 December 1920 relating to the Statute of that Court, and if any of the parties to the dispute is not a party to the Protocol of 16 December 1920, the dispute shall be referred to an arbitral tribunal constituted in accordance with the Hague Convention of 18 October 1907 for the Pacific Settlement of International Conflicts.

#### Article 22

The present Convention shall remain open until 31 December 1930 for signature on behalf of any Member of the League of Nations or of any non-Member State invited to the First Codification Conference or to which the Council of the League of Nations has communicated a copy of the Convention for this purpose.

#### Article 23

The present Convention is subject to ratification. Ratifications shall be deposited with the Secretariat of the League of Nations.

The Secretary-General shall give notice of the deposit of each ratification to the Members of the League of Nations and to the non-Member States mentioned in Article 22, indicating the date of its deposit.

#### Article 24



As from 1 January 1931, any Member of the League of Nations and any non-Member State mentioned in Article 22 on whose behalf the Convention has not been signed before that date, may accede thereto. Accession shall be effected by an instrument deposited with the Secretariat of the League of Nations. The Secretary-General of the League of Nations shall give notice of each accession to the Members of the League of Nations and to the non-Member States mentioned in Article 22, indicating the date of the deposit of the instrument.

#### Article 25

A procès-verbal shall be drawn up by the Secretary-General of the League of Nations as soon as ratifications or accessions on behalf of ten Members of the League of Nations or non-Member States have been deposited. A certified copy of this procès-verbal shall be sent by the Secretary-General of the League of Nations to each Member of the League of Nations and to each non-Member State mentioned in Article 22.

#### Article 26

The present Convention shall enter into force on the 90th day after the date of the procès-verbal mentioned in Article 25 as regards all Members of the League of Nations or non-Member States on whose behalf ratifications or accessions have been deposited on the date of the procès-verbal. As regards any Member of the League or non-Member State on whose behalf a ratification or accession is subsequently deposited, the Convention shall enter into force on the 90th day after the date of the deposit of a ratification or accession on its behalf.

#### Article 27

As from 1 January 1936, any Member of the League of Nations or any non-Member State in regard to which the present Convention is then in force, may address to the Secretary-General of the League of Nations a request for the revision of any or all of the provisions of this Convention. If such a request, after being communicated to the other Members of the League and non-Member States in regard to which the Convention is then in force, is supported within one year by at least nine of them, the Council of the League of Nations shall decide, after consultation with the Members of the League of Nations and the non-Member States mentioned in Article 22, whether a



conference should be specially convoked for that purpose or whether such revision should be considered at the next conference for the codification of international law.

The High Contracting Parties agree that, if the present Convention is revised, the revised Convention may provide that upon its entry into force some or all of the provisions of the present Convention shall be abrogated in respect of all of the Parties to the present Convention.

#### Article 28

The present Convention may be denounced. Denunciation shall be effected by a notification in writing addressed to the Secretary-General of the League of Nations, who shall inform all Members of the League of Nations and the non-Member States mentioned in Article 22.

Each denunciation shall take effect one year after the receipt by the Secretary-General of the notification but only as regards the Member of the League or non-Member State on whose behalf it has been notified.

#### Article 29

1. Any High Contracting Party may, at the time of signature, ratification or accession, declare that, in accepting the present Convention, he does not assume any obligations in respect of all or any of his colonies, protectorates, overseas territories or territories under suzerainty or mandate, or in respect of certain parts of the population of the said territories; and the present Convention shall not apply to any territories or to the parts of their population named in such declaration.

2. Any High Contracting Party may give notice to the Secretary-General of the League of Nations at any time subsequently that he desires that the Convention shall apply to all or any of his territories or to the parts of their population which have been made the subject of a declaration under the preceding paragraph, and the Convention shall apply to all the territories or the parts of their population named in such notice six months after its receipt by the Secretary-General of the League of Nations.

3. Any High Contracting Party may, at any time, declare that he desires that the present Convention shall cease to apply to all or any of his colonies, protectorates, overseas territories or territories under suzerainty or mandate, or in respect of certain

parts of the population of the said territories, and the Convention shall cease to apply to the territories or to the parts of their population named in such declaration one year after its receipt by the Secretary-General of the League of Nations.

4. Any High Contracting Party may make the reservations provided for in Article 20 in respect of all or any of his colonies, protectorates, overseas territories or territories under suzerainty or mandate, or in respect of certain parts of the population of these territories, at the time of signature, ratification or accession to the Convention or at the time of making a notification under the second paragraph of this Article.

5. The Secretary-General of the League of Nations shall communicate to all the Members of the League of Nations and the non-Member States mentioned in Article 22 all declarations and notices received in virtue of this Article.

#### Article 30

The present Convention shall be registered by the Secretary-General of the League of Nations as soon as it has entered into force.

#### Article 31

The French and English texts of the present Convention shall both be authoritative.

**IN FAITH WHEREOF** the Plenipotentiaries have signed the present Convention.  
**DONE** at The Hague on the twelfth day of April, one thousand nine hundred and thirty, in a single copy, which shall be deposited in the archives of the Secretariat of the League of Nations and of which certified true copies shall be transmitted by the Secretary-General to all the Members of the League of Nations and all the non-Member States invited to the First Conference for the Codification of International Law.

PROTOCOL RELATING TO MILITARY OBLIGATIONS IN CERTAIN CASES  
OF DOUBLE NATIONALITY 1930

The undersigned Plenipotentiaries, on behalf of their respective Governments, With a view to determining in certain cases the position as regards their military obligations of persons possessing two or more nationalities, Have agreed as follows:

Article 1.

A person possessing two or more nationalities who habitually resides in one of the countries whose nationality he possesses, and who is in fact most closely connected with that country, shall be exempt from all military obligations in the other country or countries.

This exemption may involve the loss of the nationality of the other country or countries.

Article 2.

Without prejudice to the provisions of Article 1 of the present Protocol if a person possesses the nationality of two or more States and, under the law of any one of such States, has the right, on attaining his majority, to renounce or decline the nationality of that State, he shall be exempt from military service in such State during his minority.

Article 3.

A person who has lost the nationality of a State under the law of that State and has acquired another nationality, shall be exempt from military obligations in the State of which he has lost the nationality.

Article 4.

The High Contracting Parties agree to apply the principles and rules contained in the preceding articles in their relations with each other, as from the date of the entry into force of the present Protocol.

The inclusion of the above mentioned principles and rules in the said articles shall in no way be deemed to prejudice the question whether they do or do not already form part of international law. It is understood that, in so far as any point is not covered by any of the provisions of the preceding articles, the existing principles and rules of international law shall remain in force.

## Article 5.

Nothing in the present Protocol shall affect the provisions of any treaty, convention or agreement in force between any of High Contracting Parties relating to nationality or matters connected therewith.

## Article 6.

Any High Contracting Party may, when signing or ratifying the present Protocol or acceding thereto, append an express reservation excluding any one or more of the provisions of Articles 1 to 3 and 7.

The provisions thus excluded cannot be applied against the High Contracting Party who has made the reservation nor relied on by that Party against any other High Contracting Party.

## Article 7.

If there should arise between the High Contracting Parties a dispute of any kind relating to the interpretation or application of the present Protocol and if such dispute cannot be satisfactorily settled by diplomacy, it shall be settled in accordance with any applicable agreements in force between the Parties providing for the settlement of international disputes. In case there is no such agreement in force between the Parties, the dispute shall be referred to arbitration or judicial settlement, in accordance with the constitutional procedure of each of the Parties to the dispute. In the absence of agreement on the choice of another tribunal, the dispute shall be referred to the Permanent Court of International Justice, if all the Parties to the dispute are Parties to the Protocol. of the 16th December, 1920, the dispute shall be referred to an arbitral tribunal constituted in accordance with the Hague Convention<sup>[2]</sup> of the 18th October, 1907, for Pacific Settlement of International Conflicts.

## Article 8.

The present Protocol shall remain open until the 31st December, 1930, for signature on behalf of any Member of the League of Nations or of any non-Member State invited to the First Codification Conference or to which the Council of the League of Nations has communicated a copy of the Protocol for this purpose.

## Article 9.

The present Protocol is subject to ratification. Ratifications shall be deposited with the Secretariat of the League of Nations.

The Secretary-General shall give notice of the deposit of each ratification to the Members of the League of Nations and to the non-Member States mentioned in Article 8, indicating the date of its deposit.

## Article 10.

As from January 1st, 1931, any Member of the League of Nations and any non-Member State mentioned in Article 8 on whose behalf the Protocol has not been signed before that date may accede thereto.

Accession shall be effected by an instrument deposited with the Secretariat of the League of Nations. The Secretary-General of the League of Nations shall give notice of each accession to the Members of the League of Nations and to the non-Member States mentioned in Article 8, indicating the date of the deposit of the instrument.

## Article 11.

A procès-verbal shall be drawn up by the Secretary-General of the League of Nations as soon as ratifications or accessions on behalf of ten Members of the League of Nations or non-Member States have been deposited.

A certified copy of this procès-verbal shall be sent by the Secretary-General to each Member of the League of Nations and so to each non-Member State mentioned in Article 8.

## Article 12.

The present Protocol shall enter into force on the 90th day after the date of the procès-verbal mentioned in Article 11 as regards all Members of the League of Nations or non-Member States on whose behalf ratifications or accessions have been deposited on the date of the procès-verbal. As regards any Member of the League or non-Member State on whose behalf a ratification or accession is subsequently deposited, the Protocol shall enter into force on the 90th day after the date of the deposit of a ratification or accession on its behalf.



## Article 13.

As from January 1st, 1936, any Member of the League of Nations or any non-Member State in regard to which the present Protocol is then in force, may address to the Secretary-General of the League of Nations a request for the revision of any or all or the provisions of this Protocol. If such a request, after being communicated to the other Members of the League and non-Member States in regard to which the Protocol is then in force, is supported within one year by at least nine of them, the Council of the League of Nations shall decide, after consultation with the Members of the League of Nations and the non-Member States mentioned in Article 8, whether a conference should be specially convoked for that purpose or whether such revision should be considered at the next conference for the codification of international law.

The High Contracting Parties agree that, if the present Protocol is revised, the new Agreement may provide that upon its entry into force some or all of the provisions of the present Protocol shall be abrogated in respect of all of the Parties to the present Protocol.

## Article 14.

The present Protocol may be denounced. Denunciation shall be effected by a notification in writing addressed to the Secretary-General of the League of Nations, who shall inform all Members of the League of Nations and the non-Member States mentioned in Article 8.

Each denunciation shall take effect one year after the receipt by the Secretary-General of the notification but only as regards the Member of the League or non-Member State on whose behalf it has been notified.

## Article 15.

1. Any High Contracting Party may, at the time of signature, ratification or accession, declare that, in according the present Protocol, he does not assume any obligations in respect of all or any of his colonies, protectorates, overseas territories or territories under suzerainty or mandate, or in respect of certain parts of the population of the said territories; and the present Protocol shall not apply to any territories or to the parts of their populations named in such declaration.



2. Any High Contracting Party may give notice to the Secretary-General of the League of Nations at any time subsequently that he desires that the Protocol shall apply to all or any of his territories or to the parts of their population which have been made the subject of a declaration under the preceding paragraph, and the Protocol shall apply to all the territories or the parts of their population named in such notice six months after its receipt by the Secretary-General of the League of Nations.

3. Any High Contracting Party may, at any time, declare that he desires that the present Protocol shall cease to apply to all or any of his colonies, protectorates, overseas territories or territories under suzerainty or mandate, or in respect of certain parts of the population of the said territories, and the Protocol shall cease to apply to the territories or the parts of their population named in such declaration one year after its receipt by the Secretary-General of the League of Nations.

4. Any High Contracting Party may make the reservations provided for in Article 6 in respect of all or any of his colonies, protectorates, overseas territories or territories under suzerainty or mandate, or in respect of certain parts of the population of these territories, at the time of signature, ratification or accession to the Protocol or at the time of making a notification under the second paragraph of this article.

5. The Secretary-General of the League of Nations shall communicate to all the Members of the League of Nations and the non-Member States mentioned in Article 8 all declarations and notices received in virtue of article.

#### Article 16.

The present Protocol shall be registered by the Secretary-General of the League of Nations as soon as it has entered into force.

#### Article 17.

The French and English texts of the present Protocol shall both be authoritative. In faith whereof the Plenipotentiaries have signed the present Protocol .  
Done at The Hague on the twelfth day of April, one thousand nine hundred and thirty, in a single copy, which shall be deposited in the archives of the Secretariat of the League of Nations and of which certified true copies shall be transmitted by the Secretary-

General to all the Members of the League of Nations and all the non-Member States invited to the First Conference for the Codification of International Law.

**CONVENTION ON REDUCTION OF CASES OF MULTIPLE NATIONALITY AND  
MILITARY OBLIGATIONS IN CASES OF MULTIPLE NATIONALITY 1963**

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve greater unity between its members;

Considering that cases of multiple nationality are liable to cause difficulties and that joint action to reduce as far as possible the number of cases of multiple nationality, as between member States, corresponds to the aims of the Council of Europe;

Considering it desirable that persons possessing the nationality of two or more

Contracting Parties should be required to fulfil their military obligations in relation to one of those Parties only,

Have agreed as follows:

Chapter I – Reduction of cases of multiple nationality

Article 1

1 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.

2 Nationals of the Contracting Parties who are minors and acquire by the same means the nationality of another Party shall also lose their former nationality if, where their national law provides for the loss of nationality in such cases, they have been duly empowered or represented. They shall not be authorised to retain their former nationality.

3 Minor children, other than those who are or have been married, shall likewise lose their former nationality in the event of the acquisition ipso jure of the nationality of another Contracting Party upon and by reason of the naturalisation or the exercise of an option or the recovery of nationality by their father and mother. Where only one parent loses his former nationality, the law of that Contracting Party whose nationality the minor possessed shall determine from which of his parents he shall derive his nationality. In

the latter case, the said law may make the loss of his nationality subject to the prior consent of the other parent or the guardian to his acquiring the new nationality.

However, without prejudice to the provisions of the law of each of the Contracting Parties concerning the recovery of nationality, the Party of which the minor referred to in the foregoing paragraph possessed the nationality may lay down special conditions on which they may recover that nationality of their own free will after attaining their majority.

3 ETS 43 – Multiple Nationality, 6.V.1963

4 In so far as concerns the loss of nationality as provided for in the present article, the age of majority and minority and the conditions of capacity and representation shall be determined by the law of the Contracting Party whose nationality the person concerned possesses.

#### Article 2

1 A person who possesses the nationality of two or more Contracting Parties may renounce one or more of these nationalities, with the consent of the Contracting Party whose nationality he desires to renounce.

2 Such consent may not be withheld by the Contracting Party whose nationality a person of full age possesses *ipso jure*, provided that the said person has, for the past ten years, had his ordinary residence outside the territory of that Party and also provided that he has his ordinary residence in the territory of the Party whose nationality he intends to retain.

Consent may likewise not be withheld by the Contracting Party in the case of minors who fulfil the conditions stipulated in the preceding paragraph, provided that their national law allows them to give up their nationality by means of a simple declaration and provided also that they have been duly empowered or represented.

3 The age of majority and minority and the conditions for being empowered or represented shall be determined by the law of the Contracting Party whose nationality the person in question desires to renounce.

#### Article 3

The Contracting Party whose nationality a person desires to renounce shall not require the payment of any special tax or charge in the event of such renunciation.

## Article 4

Nothing in the provisions of this Convention shall preclude the application of any provision more likely to limit the occurrence of multiple nationality whether embodied or subsequently introduced into either the municipal law of any Contracting Party or any other treaty, convention or agreement between two or more of the Contracting Parties.

## Chapter II – Military obligations in cases of multiple nationality

## Article 5

1 Persons possessing the nationality of two or more Contracting Parties shall be required to fulfil their military obligations in relation to one of those Parties only.

2 The modes of application of paragraph 1 may be determined by special agreements between any of the Contracting Parties.

## Article 6

Except where a special agreement which has been, or may be, concluded provides otherwise, the following provisions are applicable to a person possessing the nationality of two or more Contracting Parties: 4 ETS 43 – Multiple Nationality, 6.V.1963

1 Any such person shall be subject to military obligations in relation to the Party in whose territory he is ordinarily resident. Nevertheless, he shall be free to choose, up to the age of 19 years, to submit himself to military obligations as a volunteer in relation to any other Party of which he is also a national for a total and effective period at least equal to that of the active military service required by the former Party.

2 A person who is ordinarily resident in the territory of a Contracting Party of which he is not a national or in that of a State which is not a Party may choose to perform his military service in the territory of any Contracting Party of which he is a national.

3 A person who, in accordance with the rules laid down in paragraphs 1 and 2, shall fulfil his military obligations in relation to one Party, as prescribed by the law of that Party, shall be deemed to have fulfilled his military obligations in relation to any other Party or Parties of which he is also a national.

4 A person who, before the entry into force of this Convention between the Parties of which he is a national, has, in relation to one of those Parties, fulfilled his military



obligations in accordance with the law of that Party, shall be deemed to have fulfilled the same obligations in relation to any other Party or Parties of which he is also a national.

5 A person who, in conformity with paragraph 1, has performed his active military service in relation to one of the Contracting Parties of which he is a national, and subsequently transfers his ordinary residence to the territory of the other Party of which he is a national, shall be liable to military service in the reserve only in relation to the latter Party.

6 The application of this article shall not prejudice, in any respect, the nationality of the persons concerned.

7 In the event of mobilisation by any Party, the obligations arising under this article shall not be binding upon that Party.

### Chapter III – Application of the Convention

#### Article 7

1 Each Contracting Party shall apply the provisions of Chapters I and II. It is however understood that each Contracting Party may declare, at the time of ratification, acceptance or accession, that it will apply the provisions of Chapter II only. In this case the provisions of Chapter I shall not be applicable in relation to that Party.

It may, at any subsequent time, notify the Secretary General of the Council of Europe that it is applying the provisions of Chapter I as well. This notification shall become effective as from the date of its receipt, and the provisions of Chapter I shall thereupon become applicable in relation to that Party. 5 ETS 43 – Multiple Nationality, 6.V.1963

2 Each Contracting Party which has applied the provisions of the first sub-paragraph of paragraph 1 of this article may declare, at the time of signing or at the time of depositing its instrument of ratification, acceptance or accession that it will apply the provisions of Chapter II only in regard to Contracting Parties which are applying the provisions of Chapters I and II. In this case the provisions of Chapter II shall not be applicable between the Party making such a declaration and a Party applying the second sub-paragraph of paragraph 1.

### Chapter IV – Final clauses

#### Article 8



1 Any Contracting Party may, when signing this Convention or depositing its instrument of ratification, acceptance or accession, declare that it avails itself of one or more of the reservations provided for in the Annex to the present Convention. No other reservation shall be permitted.

2 Any Contracting Party may wholly or partly withdraw a reservation it has made in accordance with the foregoing paragraph by means of a notification addressed to the Secretary General of the Council of Europe, which shall become effective as from the date of its receipt.

3 A Contracting Party which has made a reservation in respect of any provision of the Convention in accordance with this article may not claim application of the said provision by another Party; it may, however, if its reservation is partial or conditional claim the application of that provision in so far as it has itself accepted it.

#### Article 9

1 Any Contracting Party may, by a declaration made to the Secretary General of the Council of Europe on signature or on depositing its instrument of ratification, acceptance or accession, or at any subsequent time, with regard to States and territories for which it assumes international responsibility, or for which it is empowered to contract, define the term "nationals" and specify the "territories" to which the present Convention shall be applicable.

2 Any declaration made in accordance with this article may, in respect of the nationals and territories mentioned in such declaration, be withdrawn according to the procedure laid down in Article 12 of this Convention.

#### Article 10

1 This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.

2 This Convention shall enter into force one month after the date of deposit of the second instrument of ratification or acceptance.

3 In respect of a signatory State ratifying or accepting subsequently, the Convention shall come into force one month after the date of deposit of its instrument of ratification or acceptance. 6 ETS 43 – Multiple Nationality, 6.V.1963

#### Article 11

1 After this Convention has come into force the Committee of Ministers of the Council of Europe may unanimously decide to invite any State which is not a member of the Council to accede to it. Any State so invited may accede by depositing its instrument of accession with the Secretary General of the Council.

2 The Convention shall come into force in respect of any State acceding thereto one month after the date of deposit of its instrument of accession.

#### Article 12

1 This Convention shall remain in force indefinitely.

2 Any Contracting Party may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

3 Such denunciation shall take effect one year after the date of receipt by the Secretary General of such notification.

#### Article 13

The Secretary General of the Council of Europe shall notify the member States of the Council and the government of any State which has acceded to this Convention of :

- a any signature and any deposit of instruments of ratification, acceptance or accession;
- b all dates of entry into force of the Convention in accordance with Articles 10 and 11 thereof;
- c any reservation made in accordance with Article 8, paragraph 1;
- d the withdrawal of any reservation in accordance with Article 8, paragraph 2;
- e any declaration or notification received in accordance with the provisions of Article 7 and Article 9, paragraph 1;
- f any notification received in pursuance of the provisions of Article 9, paragraph 2, and of Article 12 and the date on which denunciation takes effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 6th day of May 1963, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory and acceding governments.

#### ANNEX

Any Contracting Party may declare that it reserves the right:

1 to make the loss of nationality referred to in Article 1, paragraphs 1, 2 and 3, subject to the condition that the person concerned already ordinarily resides or at some time takes up his ordinary residence outside its territory, except where, in the case of acquisition of a foreign nationality of his own free will, such person is exempted by the competent authority from the condition of ordinary residence abroad;

2 not to regard a declaration made by a woman with a view to acquiring her husband's nationality by virtue and at the time of marriage as an option within the meaning of Article 1;

3 to allow any of its nationals to retain his previous nationality if a Contracting Party for whose nationality he applies in the manner referred to in Article 1 gives its prior consent thereto;

4 not to apply the provisions of Articles 1 and 2 when the wife of one of its nationals has acquired a another nationality while her husband retains the nationality of such Party.

Convention on the exchange of information relating to  
acquisition of nationality 1964

The Federal Republic of Germany, the Republic of Austria, the Kingdom of Belgium, the French Republic, the Kingdom of Greece, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Swiss Confederation and the Turkish Republic, members of the International Commission on Civil Status, being desirous of co-operating with one another by an exchange of information concerning acquisitions by their nationals, have agreed as follows :

Article 1

Each Contracting State undertakes to inform any other Contracting State of acquisitions of nationality resulting from naturalization, option or reintegration that concern nationals of the latter State.

Article 2

This information shall be given by means of a form, a model whereof is appended to this Convention, which shall state :

1. the surname and forenames of the person concerned;
2. his or her place and date of birth;
3. his or her present residence and last known residence in the State of which he or she had the nationality;
4. the method of acquisition of nationality and the date on which it takes effect;
5. where appropriate, the type, number and date of the document proving the previous nationality.

Article 3

Where the acquisition of nationality extends *ipso iure* to the spouse or minor children, the form mentioned in the preceding Article shall also indicate the surnames, forenames and places of birth of the spouse and children concerned.

Article 4

The form shall be sent directly within three months from the date on which the acquisition of nationality takes effect.

Each Contracting State shall, at the time of signature, notification or accession, indicate the central authority empowered by it to receive such forms.

#### Article 5

This Convention shall affect neither the provisions of the domestic law of each Contracting State relating to nationality nor conventions providing for an exchange of more comprehensive information in matters of acquisition of nationality.

#### Article 6

The Contracting States shall notify the Swiss Federal Council of the completion of the procedures required by their Constitutions to render this Convention applicable in their territory.

The Swiss Federal Council shall inform the Contracting States and the Secretary General of the International Commission on Civil Status of any notification made pursuant to the preceding paragraph.

#### Article 7

This Convention shall enter into force from the thirtieth day following the date of deposit of the second notification and shall take effect from that day between the two States which have completed that formality.

For each signatory State which completes the formality mentioned in the preceding Article at a later date, this Convention shall take effect from the thirtieth day following the date of deposit of its notification.

#### Article 8

Each Contracting State may, at the time of signature, of the notification mentioned in Article 6 or of accession, declare that it is excluding acquisitions of nationality resulting from option or reintegration from the information to be given under Article 1.

Any Contracting State may withdraw in whole or in part a reservation formulated by it pursuant to the preceding paragraph, by notification to the Swiss Federal Council which shall take effect on the thirtieth day following the date on which it is received.

The Swiss Federal Council shall inform each of the Contracting States and the Secretary General of the International Commission on Civil Status of such notification.



#### Article 9

This Convention shall apply *ipso iure* throughout the metropolitan territory of each Contracting State.

Any Contracting State may, at the time of signature, of the notification mentioned in Article 6 or of accession or subsequently, declare by notification to the Swiss Federal Council that the provisions of this Convention shall apply to one or more of its extra-metropolitan territories or the States or the States or territories for whose international relations it is responsible. The Swiss Federal Council shall inform each of the Contracting States and the Secretary General of the International Commission on Civil Status of such notification. The provisions of this Convention shall become applicable in the territory or territories designated in the notification on the thirtieth day following the date on which the Swiss Federal Council receives the notification.

Any State which has made a declaration pursuant to the provisions of the second paragraph of this Article may subsequently declare at any time by notification to the Swiss Federal Council that this Convention shall cease to apply to one or more of the States or territories designated in the declaration.

The Swiss Federal Council shall inform each of the Contracting States and the Secretary General of the International Commission on Civil Status of the further notification.

The Convention shall cease to apply to the territory concerned on the thirtieth day following the date on which the Swiss Federal Council receives that notification.

#### Article 10

Any member State of the International Commission on Civil Status or the Council of Europe may accede to this Convention.

A State wishing to accede shall give notice of its intention by an instrument deposited with the Swiss Federal Council. The latter shall inform each of the Contracting States and the Secretary General of the International Commission on Civil Status of every deposit of an instrument of accession. The Convention shall enter into force, for the acceding State, on the thirtieth day following the date of deposit of the instrument of accession.



Deposit of an instrument of accession may take place only after the entry into force of this Convention.

#### Article 11

This Convention may be revised.

Any proposal for a revision shall be lodged with the Swiss Federal Council, which shall give notice thereof to the other Contracting States and the Secretary General of the International Commission on Civil Status.

#### Article 12

This Convention shall remain in force for a term of five years from the date indicated in the first paragraph of Article 7.

The Convention shall be tacitly renewed every five years, unless it is denounced.

The Swiss Federal Council must be notified of any denunciation at least six months before the expiry of a term; the Council shall inform all the other Contracting States and the Secretary General of the International Commission on Civil Status of such denunciation.

Denunciation shall have effect only in relation to the State which has given the notification. The Convention shall remain in force for the other Contracting States.

In witness where of the undersigned representatives, duly authorized to this end, have signed this Convention.

Done at Paris, on 10 September 1964, in a single copy which shall be deposited in the archives of the Swiss Federal Council and a certified copy of which shall be transmitted through diplomatic channels to each of the Contracting States and to the Secretary General of the International Commission on Civil Status.

ADDITIONAL PROTOCOL TO THE CONVENTION ON THE REDUCTION  
OF CASES OF MULTIPLE NATIONALITY AND MILITARY OBLIGATIONS IN CASES  
OF MULTIPLE NATIONALITY 1977

The member States of the Council of Europe, signatory to this additional Protocol,  
Considering the desirability of extending and promoting the application of the Convention  
on the Reduction of Cases of Multiple Nationality and Military Obligations in cases of  
Multiple Nationality, signed in Strasbourg on 6 May 1963, hereinafter referred to as "the  
Convention";

Considering that this Convention will be fully effective only if it is associated with an  
arrangement for communication between the Contracting Parties about the acquisition of  
their nationality by the nationals of other Contracting Parties;

Have agreed as follows:

Article 1

Each Contracting Party undertakes to communicate to another Contracting Party  
any acquisition of its nationality by an adult or a minor who is a national of this State, which  
has taken place according to the conditions contained in Article 1 of the Convention.

Article 2

- 1 This communication is to be made by means of a form according to the  
appended model within a delay of not more than six months from the date the  
acquisition of nationality has become effective. The information printed on the  
form shall be drafted in all the languages of the member States of the Council of  
Europe and in the languages of non-member States adhering to the Convention.  
The Secretary General of the Council shall produce the necessary translations  
and communicate them to the governments of the member States of the Council  
and States acceding to the Convention.
- 2 The authorities of the State issuing the communication may decline to complete  
the information relating to item 4 of the form.

Article 3

Any Contracting Party on signature or on depositing its instrument of ratification,  
acceptance, approval or accession shall indicate by means of a declaration

addressed to the Secretary General of the Council of Europe the central authority which has been designated to receive this transmission.

#### Article 4

This Protocol shall be open to signature by the member States of the Council of Europe which are Parties to the Convention and which, if they are Parties to the Protocol amending the Convention, have accepted the provisions of Chapter I of the Convention.

#### Article 5

- 1 Subject to the provisions of Article 4, the Contracting Parties to the Convention may become Parties to the Additional Protocol by:
  - a signature without reservation in respect of ratification, acceptance or approval;
  - b signature with reservation in respect of ratification, acceptance or approval, followed by ratification, acceptance or approval.
- 2 Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

#### Article 6

- 1 This Protocol shall enter into force one month after the date on which two Contracting Parties to the Convention shall have become Parties to this Protocol in accordance with the provisions of Article 5.
- 2 As regards any Contracting Party to the Convention who shall subsequently sign this Protocol without reservation in respect of ratification, acceptance or approval, or who shall ratify, accept or approve it, this Protocol shall enter into force one month after the date of such signature or after the date of deposit of the instrument of ratification, acceptance or approval.

#### Article 7

- 1 After this Protocol has entered into force, any State which acceded to the Convention may accede to this Protocol provided that such State, when acceding to the Protocol amending the Convention, accepts the provisions of Chapter I of the Convention.

- 2 Any State which is not a member of the Council of Europe invited to accede to the Convention shall be considered as having been invited also to accede to this Protocol, provided that, when it accedes to the Protocol amending the Convention, it accepts the provisions of Chapter I of the Convention.
- 3 Any such State may accede by depositing with the Secretary General of the Council of Europe its instrument of accession, which shall come into force one month after the date of deposit.

#### Article 8

- 1 Any Contracting Party may, in so far as it is concerned, denounce this Protocol by means of a notification addressed to the Secretary General of the Council of Europe.
- 2 Such denunciations shall take effect one year after the date of receipt by the Secretary General of such notification.
- 3 Denunciation of the Convention implies *ipso jure* the denunciation of this Protocol.

#### Article 9

The Secretary General of the Council of Europe shall notify the member States of the Council and the governments of any State which has acceded to the Convention of:

- a any signature without reservation of ratification, acceptance or approval;
- b any signature with reservation of ratification, acceptance or approval;
- c the deposit of any instrument of ratification, acceptance, approval or accession;
- d all dates of entry into force of this Protocol in accordance with Articles 6 and 7 thereof;
- e any declaration received in pursuance of the provisions of Article 3;
- f any notification received in pursuance of the provisions of Article 8 and the date on which denunciation takes effect.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Strasbourg, this 24th day of November 1977, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding States.

**Appendix to the additional protocol**

- 1 a Name prior to acquisition
- b Name after acquisition
- 2 a First names prior to acquisition
- b First names after acquisition
- 3 Place and date of birth
- 4 Present residence  
(Name of the State and the town)
- 5 a Previous nationalit(y)(ies)
- b Last residence known in the State where the applicant was a national
- 6 a Nationality acquired
- b Type of document
- c Date and number of document
- d Date when the acquisition takes effect
- e Type, number and date of the document, if any, which proves  
      the previous nationality
- 7 Spouse to whom the acquisition extends ( State whether the acquisition  
occurs automatically or on request.)
  - a Name (maiden name if any)
  - b First names
  - c Place of birth
  - d Date of birth



## 8 Known minor children to whom the acquisition extends

Name	First names	Place of birth	Date of birth
a	a	a	a
b	b	b	b
c	c	c	c
d	d	d	d
e	e	e	e
f	f	f	f
g	g	g	g
h	h	h	h

## 9 Observations

....., the .....

Official seal

Signature (official position of signatory)

The information is written in Latin characters, the dates in arabic numerals, the months are shown by a number according to their place in the year

## EUROPEAN CONVENTION ON NATIONALITY 1997

## 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 *ex lege*

- 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.

#### Article 17 Rights and duties related to multiple nationality

- 1 Nationals of a State Party in possession of another nationality shall have, in the territory of that State Party in which they reside, the same rights and duties as other nationals of that State Party.
- 2 The provisions of this chapter do not affect:
  - a the rules of international law concerning diplomatic or consular protection by a State Party in favour of one of its nationals who simultaneously possesses another nationality;
  - b the application of the rules of private international law of each State Party in cases of multiple nationality.

### Chapter VI – State succession and nationality

#### Article 18 Principles

- 1 In matters of nationality in cases of State succession, each State Party concerned shall respect the principles of the rule of law, the rules concerning human rights and the principles contained in Articles 4 and 5 of this Convention and in paragraph 2 of this article, in particular in order to avoid statelessness.
- 2 In deciding on the granting or the retention of nationality in cases of State succession, each State Party concerned shall take account in particular of:
  - a the genuine and effective link of the person concerned with the State;
  - b the habitual residence of the person concerned at the time of State succession;
  - c the will of the person concerned;
  - d the territorial origin of the person concerned.
- 3 Where the acquisition of nationality is subject to the loss of a foreign nationality, the provisions of Article 16 of this Convention shall apply.

#### Article 19 Settlement by international agreement

In cases of State succession, States Parties concerned shall endeavour to regulate matters relating to nationality by agreement amongst themselves and, where applicable, in their relationship with other States concerned. Such agreements shall respect the principles and rules contained or referred to in this chapter.

#### Article 20 Principles concerning non-nationals

- 1 Each State Party shall respect the following principles:
  - a nationals of a predecessor State habitually resident in the territory over which sovereignty is transferred to a successor State and who have not acquired its nationality shall have the right to remain in that State;
  - b persons referred to in sub-paragraph a shall enjoy equality of treatment with nationals of the successor State in relation to social and economic rights.
- 2 Each State Party may exclude persons considered under paragraph 1 from employment in the public service involving the exercise of sovereign powers.

#### Chapter VII – Military obligations in cases of multiple nationality

##### Article 21 Fulfilment of military obligations

- 1 Persons possessing the nationality of two or more States Parties shall be required to fulfil their military obligations in relation to one of those States Parties only.
- 2 The modes of application of paragraph 1 may be determined by special agreements between any of the States Parties.
- 3 Except where a special agreement which has been, or may be, concluded provides otherwise, the following provisions are applicable to persons possessing the nationality of two or more States Parties:
  - a Any such person shall be subject to military obligations in relation to the State Party in whose territory they are habitually resident. Nevertheless, they shall be free to choose, up to the age of 19 years, to submit themselves to military obligations as volunteers in relation to any other State Party of which they are also nationals for a total and effective period at least equal to that of the active military service required by the former State Party;

- b Persons who are habitually resident in the territory of a State Party of which they are not nationals or in that of a State which is not a State Party may choose to perform their military service in the territory of any State Party of which they are nationals;
- c Persons who, in accordance with the rules laid down in paragraphs a and b, shall fulfil their military obligations in relation to one State Party, as prescribed by the law of that State Party, shall be deemed to have fulfilled their military obligations in relation to any other State Party or States Parties of which they are also nationals;
- d Persons who, before the entry into force of this Convention between the States Parties of which they are nationals, have, in relation to one of those States Parties, fulfilled their military obligations in accordance with the law of that State Party, shall be deemed to have fulfilled the same obligations in relation to any other State Party or States Parties of which they are also nationals;
- e Persons who, in conformity with paragraph a, have performed their active military service in relation to one of the States Parties of which they are nationals, and subsequently transfer their habitual residence to the territory of the other State Party of which they are nationals, shall be liable to military service in the reserve only in relation to the latter State Party;
- f The application of this article shall not prejudice, in any respect, the nationality of the persons concerned;
- g In the event of mobilisation by any State Party, the obligations arising under this article shall not be binding upon that State Party.

#### Article 22

##### Exemption from military obligations or alternative civil service

Except where a special agreement which has been, or may be, concluded provides otherwise, the following provisions are also applicable to persons possessing the nationality of two or more States Parties:



- a Article 21, paragraph 3, sub-paragraph c, of this Convention shall apply to persons who have been exempted from their military obligations or have fulfilled civil service as an alternative;
- b persons who are nationals of a State Party which does not require obligatory military service shall be considered as having satisfied their military obligations when they have their habitual residence in the territory of that State Party. Nevertheless, they should be deemed not to have satisfied their military obligations in relation to a State Party or States Parties of which they are equally nationals and where military service is required unless the said habitual residence has been maintained up to a certain age, which each State Party concerned shall notify at the time of signature or when depositing its instruments of ratification, acceptance or accession;
- c also persons who are nationals of a State Party which does not require obligatory military service shall be considered as having satisfied their military obligations when they have enlisted voluntarily in the military forces of that Party for a total and effective period which is at least equal to that of the active military service of the State Party or States Parties of which they are also nationals without regard to where they have their habitual residence.

#### Chapter VIII – Co-operation between the States Parties

##### Article 23

##### Co-operation between the States Parties

- 1 With a view to facilitating co-operation between the States Parties, their competent authorities shall:
  - a provide the Secretary General of the Council of Europe with information about their internal law relating to nationality, including instances of statelessness and multiple nationality, and about developments concerning the application of the Convention;

- b provide each other upon request with information about their internal law relating to nationality and about developments concerning the application of the Convention.
- 2 States Parties shall co-operate amongst themselves and with other member States of the Council of Europe within the framework of the appropriate intergovernmental body of the Council of Europe in order to deal with all relevant problems and to promote the progressive development of legal principles and practice concerning nationality and related matters.

#### Article 24 Exchange of information

Each State Party may at any time declare that it shall inform any other State Party, having made the same declaration, of the voluntary acquisition of its nationality by nationals of the other State Party, subject to applicable laws concerning data protection. Such a declaration may indicate the conditions under which the State Party will give such information. The declaration may be withdrawn at any time.

#### Chapter IX – Application of the Convention

##### Article 25

##### Declarations concerning the application of the Convention

- 1 Each State may declare, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, that it will exclude Chapter VII from the application of the Convention.
- 2 The provisions of Chapter VII shall be applicable only in the relations between States Parties for which it is in force.
- 3 Each State Party may, at any subsequent time, notify the Secretary General of the Council of Europe that it will apply the provisions of Chapter VII excluded at the time of signature or in its instrument of ratification, acceptance, approval or accession. This notification shall become effective as from the date of its receipt.

##### Article 26 Effects of this Convention

- 1 The provisions of this Convention shall not prejudice the provisions of internal law and binding international instruments which are already in force or may come

into force, under which more favourable rights are or would be accorded to individuals in the field of nationality.

- 2 This Convention does not prejudice the application of:
  - a the 1963 Convention on the Reduction of Cases of Multiple Nationality and Military Obligations in Cases of Multiple Nationality and its Protocols;
  - b other binding international instruments in so far as such instruments are compatible with this Convention,

in the relationship between the States Parties bound by these instruments.

#### Chapter X – Final clauses

##### Article 27 Signature and entry into force

- 1 This Convention shall be open for signature by the member States of the Council of Europe and the non-member States which have participated in its elaboration. Such States may express their consent to be bound by:
  - a signature without reservation as to ratification, acceptance or approval; or
  - b signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval.

Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

- 2 This Convention shall enter into force, for all States having expressed their consent to be bound by the Convention, on the first day of the month following the expiration of a period of three months after the date on which three member States of the Council of Europe have expressed their consent to be bound by this Convention in accordance with the provisions of the preceding paragraph.
- 3 In respect of any State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of signature or of the deposit of its instrument of ratification, acceptance or approval.

##### Article 28 Accession

- 1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any non-member State of the Council of Europe which has not participated in its elaboration to accede to this Convention.
- 2 In respect of any acceding State, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

#### Article 29 Reservations

- 1 No reservations may be made to any of the provisions contained in Chapters I, II and VI of this Convention. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations to other provisions of the Convention so long as they are compatible with the object and purpose of this Convention.
- 2 Any State which makes one or more reservations shall notify the Secretary General of the Council of Europe of the relevant contents of its internal law or of any other relevant information.
- 3 A State which has made one or more reservations in accordance with paragraph 1 shall consider withdrawing them in whole or in part as soon as circumstances permit. Such withdrawal shall be made by means of a notification addressed to the Secretary General of the Council of Europe and shall become effective as from the date of its receipt.
- 4 Any State which extends the application of this Convention to a territory mentioned in the declaration referred to in Article 30, paragraph 2, may, in respect of the territory concerned, make one or more reservations in accordance with the provisions of the preceding paragraphs.
- 5 A State Party which has made reservations in respect of any of the provisions in Chapter VII of the Convention may not claim application of the said provisions by another State Party save in so far as it has itself accepted these provisions.

#### Article 30 Territorial application

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
- 2 Any State may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. In respect of such territory, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
- 3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

#### Article 31 Denunciation

- 1 Any State Party may at any time denounce the Convention as a whole or Chapter VII only by means of a notification addressed to the Secretary General of the Council of Europe.
- 2 Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of notification by the Secretary General.

#### Article 32

##### Notifications by the Secretary General

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any Signatory, any Party and any other State which has acceded to this Convention of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;



- c any date of entry into force of this Convention in accordance with Articles 27 or 28 of this Convention;
- d any reservation and withdrawal of reservations made in pursuance of the provisions of Article 29 of this Convention;
- e any notification or declaration made under the provisions of Articles 23, 24, 25, 27, 28, 29, 30 and 31 of this Convention;
- f any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this sixth day of November 1997, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to the non-member States which have participated in the elaboration of this Convention and to any State invited to accede to this Convention.

## Draft articles on Diplomatic Protection 2006

### PART ONE GENERAL PROVISIONS

#### Article 1 Definition and scope

For the purposes of the present draft articles, diplomatic protection consists of the invocation by a State, through diplomatic action or other means of peaceful settlement, of the responsibility of another State for an injury caused by an internationally wrongful act of that State to a natural or legal person that is a national of the former State with a view to the implementation of such responsibility.

#### Article 2 Right to exercise diplomatic protection

A State has the right to exercise diplomatic protection in accordance with the present draft articles.

### PART TWO NATIONALITY

#### CHAPTER I GENERAL PRINCIPLES

##### Article 3 Protection by the State of nationality

1. The State entitled to exercise diplomatic protection is the State of nationality.
2. Notwithstanding paragraph 1, diplomatic protection may be exercised by a State in respect of a person that is not its national in accordance with draft article 8.

#### CHAPTER II NATURAL PERSONS

##### Article 4 State of nationality of a natural person

For the purposes of the diplomatic protection of a natural person, a State of nationality means a State whose nationality that person has acquired, in accordance with the law of that State, by birth, descent, naturalization, succession of States or in any other manner, not inconsistent with international law.

##### Article 5 Continuous nationality of a natural person

1. A State is entitled to exercise diplomatic protection in respect of a person who was a national of that State continuously from the date of injury to the date of the official presentation of the claim. Continuity is presumed if that nationality existed at both these dates.
2. Notwithstanding paragraph 1, a State may exercise diplomatic protection in respect of a person who is its national at the date of the official presentation of the claim but was

not a national at the date of injury, provided that the person had the nationality of a predecessor State or lost his or her previous nationality and acquired, for a reason unrelated to the bringing of the claim, the nationality of the former State in a manner not inconsistent with international law.

3. Diplomatic protection shall not be exercised by the present State of nationality in respect of a person against a former State of nationality of that person for an injury caused when that person was a national of the former State of nationality and not of the present State of nationality.

4. A State is no longer entitled to exercise diplomatic protection in respect of a person who acquires the nationality of the State against which the claim is brought after the date of the official presentation of the claim.

#### Article 6 Multiple nationality and claim against a third State

1. Any State of which a dual or multiple national is a national may exercise diplomatic protection in respect of that national against a State of which that person is not a national.

2. Two or more States of nationality may jointly exercise diplomatic protection in respect of a dual or multiple national.

#### Article 7 Multiple nationality and claim against a State of nationality

A State of nationality may not exercise diplomatic protection in respect of a person against a State of which that person is also a national unless the nationality of the former State is predominant, both at the date of injury and at the date of the official presentation of the claim.

#### Article 8 Stateless persons and refugees

1. A State may exercise diplomatic protection in respect of a stateless person who, at the date of injury and at the date of the official presentation of the claim, is lawfully and habitually resident in that State.

2. A State may exercise diplomatic protection in respect of a person who is recognized as a refugee by that State, in accordance with internationally accepted standards, when that person, at the date of injury and at the date of the official presentation of the claim, is lawfully and habitually resident in that State.

3. Paragraph 2 does not apply in respect of an injury caused by an internationally wrongful act of the State of nationality of the refugee.

#### CHAPTER III LEGAL PERSONS

##### Article 9 State of nationality of a corporation

For the purposes of the diplomatic protection of a corporation, the State of nationality means the State under whose law the corporation was incorporated. However, when the corporation is controlled by nationals of another State or States and has no substantial business activities in the State of incorporation, and the seat of management and the financial control of the corporation are both located in another State, that State shall be regarded as the State of nationality.

##### Article 10 Continuous nationality of a corporation

1. A State is entitled to exercise diplomatic protection in respect of a corporation that was a national of that State, or its predecessor State, continuously from the date of injury to the date of the official presentation of the claim. Continuity is presumed if that nationality existed at both these dates.
2. A State is no longer entitled to exercise diplomatic protection in respect of a corporation that acquires the nationality of the State against which the claim is brought after the presentation of the claim.
3. Notwithstanding paragraph 1, a State continues to be entitled to exercise diplomatic protection in respect of a corporation which was its national at the date of injury and which, as the result of the injury, has ceased to exist according to the law of the State of incorporation.

##### Article 11 Protection of shareholders

A State of nationality of shareholders in a corporation shall not be entitled to exercise diplomatic protection in respect of such shareholders in the case of an injury to the corporation unless:

- (a) The corporation has ceased to exist according to the law of the State of incorporation for a reason unrelated to the injury; or

(b) The corporation had, at the date of injury, the nationality of the State alleged to be responsible for causing the injury, and incorporation in that State was required by it as a precondition for doing business there.

#### Article 12

##### Direct injury to shareholders

To the extent that an internationally wrongful act of a State causes direct injury to the rights of shareholders as such, as distinct from those of the corporation itself, the State of nationality of any such shareholders is entitled to exercise diplomatic protection in respect of its nationals.

#### Article 13 Other legal persons

The principles contained in this chapter shall be applicable, as appropriate, to the diplomatic protection of legal persons other than corporations.

### PART THREE LOCAL REMEDIES

#### Article 14 Exhaustion of local remedies

1. A State may not present an international claim in respect of an injury to a national or other person referred to in draft article 8 before the injured person has, subject to draft article 15, exhausted all local remedies.
2. "Local remedies" means legal remedies which are open to an injured person before the judicial or administrative courts or bodies, whether ordinary or special, of the State alleged to be responsible for causing the injury.
3. Local remedies shall be exhausted where an international claim, or request for a declaratory judgement related to the claim, is brought preponderantly on the basis of an injury to a national or other person referred to in draft article 8.

#### Article 15 Exceptions to the local remedies rule

Local remedies do not need to be exhausted where:

- (a) There are no reasonably available local remedies to provide effective redress, or the local remedies provide no reasonable possibility of such redress;
- (b) There is undue delay in the remedial process which is attributable to the State alleged to be responsible;



- (c) There was no relevant connection between the injured person and the State alleged to be responsible at the date of injury;
- (d) The injured person is manifestly precluded from pursuing local remedies; or
- (e) The State alleged to be responsible has waived the requirement that local remedies be exhausted.

#### PART FOUR MISCELLANEOUS PROVISIONS

##### Article 16 Actions or procedures other than diplomatic protection

The rights of States, natural persons, legal persons or other entities to resort under international law to actions or procedures other than diplomatic protection to secure redress for injury suffered as a result of an internationally wrongful act, are not affected by the present draft articles.

##### Article 17 Special rules of international law

The present draft articles do not apply to the extent that they are inconsistent with special rules of international law, such as treaty provisions for the protection of investments.

##### Article 18 Protection of ships' crews

The right of the State of nationality of the members of the crew of a ship to exercise diplomatic protection is not affected by the right of the State of nationality of a ship to seek redress on behalf of such crew members, irrespective of their nationality, when they have been injured in connection with an injury to the vessel resulting from an internationally wrongful act.

##### Article 19 Recommended practice

A State entitled to exercise diplomatic protection according to the present draft articles, should:

- (a) Give due consideration to the possibility of exercising diplomatic protection, especially when a significant injury has occurred;
- (b) Take into account, wherever feasible, the views of injured persons with regard to resort to diplomatic protection and the reparation to be sought; and
- (c) Transfer to the injured person any compensation obtained for the injury from the responsible State subject to any reasonable deductions.

## ประวัติผู้เขียนวิทยานิพนธ์

นางสาวลัดดา นนทรังสี เกิดเมื่อวันที่ 23 กุมภาพันธ์ พ.ศ. 2516 ที่โรงพยาบาลเสนาภา อำเภอสีชล จังหวัดนครศรีธรรมราช จบการศึกษาระดับปริญญาตรี สาขาสื่อสารมวลชน จากคณะวารสารศาสตร์และสื่อสารมวลชน มหาวิทยาลัยธรรมศาสตร์ เมื่อ พ.ศ. 2537 และจบศึกษาชั้นปริญญาตรีจากคณะนิติศาสตร์ มหาวิทยาลัยสุโขทัยธรรมมาธิราช เมื่อ พ.ศ. 2546 สอบบรรจุเข้ารับราชการในตำแหน่งนิติกร ระดับ 3 สำนักงานสถิติแห่งชาติ กระทรวงเทคโนโลยีสารสนเทศและการสื่อสาร เมื่อ พ.ศ. 2548 ปัจจุบันดำรงตำแหน่งนิติกรปฏิบัติการ สังกัดกลุ่มการเจ้าหน้าที่ สำนักงานสถิติแห่งชาติ กระทรวงเทคโนโลยีสารสนเทศและการสื่อสาร

