

EUDO CITIZENSHIP OBSERVATORY

COUNTRY REPORT: FINLAND

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European University Institute, Florence
Robert Schuman Centre for Advanced Studies
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Finland

Jessica Fagerlund and Sampo Brander¹

1 Introduction

Finland adopted a new Nationality Act in 2003. This reform, which had been in preparation for at least six years, can be seen as an interesting mixture of old and new elements. On one hand, the new Act contains many features which have long been characteristic of Finnish nationality legislation (Nordic cooperation, the principle of *ius sanguinis*, gradual evolution of gender equality). On the other hand, the new Act also brought significant changes to some traditional standpoints (multiple citizenship, naturalisation conditions).

Nordic cooperation in the field of nationality legislation can be traced back to the late nineteenth century (Ersbøll 2003): the bases of the current reciprocal rules on facilitated acquisition and reacquisition of citizenship can be found in the Nordic Agreement of 1950, to which Finland acceded in 1969. It is remarkable that in the government proposal for the new Nationality Act, emphasis was laid on *familiarity with Finnish society* as grounds for acquisition of Finnish citizenship by application or declaration.² The exceptions granted to citizens of other Nordic countries (Denmark, Iceland, Norway and Sweden) were accordingly justified by the *similarity of Nordic societies*.³ In the new Act, Nordic citizens are given the possibility of acquiring Finnish citizenship by facilitated naturalisation (Section 21) or declaration (Section 30). In addition, residence in other Nordic countries is considered equal to residence in Finland in certain situations (Sections 28 and 34).

Another traditional feature in the new Nationality Act is that acquisition of Finnish citizenship at birth is based on the principle of *ius sanguinis*, while *ius soli* has a limited application and is related to the prevention of statelessness (Sections 9 and 12), which has been elevated to a constitutional principle: Finnish citizenship may never be lost if it would lead to statelessness. Thirdly, like almost all earlier major amendments of nationality legislation since the independence of Finland, the new Nationality Act made a step towards gender equality, the difference, however, being that it was now the status of men which was ameliorated (acquisition of Finnish citizenship from the father for children born out of wedlock, Section 9).

The most important change in the new Nationality Act is the full acceptance of multiple citizenship. International trends and considerable pressure from interest groups of Finnish expatriates made Finland reconsider its traditional critical attitude in the 1990s. With the entry into force of the new Nationality Act on 1 June 2003, former Finnish citizens and their descendants who had lost their citizenship due to the earlier prohibition of multiple citizenship were given a five years' provisional possibility to reacquire their Finnish citizenship by declaration (Section 60). Almost 22,000 people made use of this opportunity before the transitional period ended on 31 May 2008.

The 1990s also witnessed radical changes to the immigration pattern in

¹ The original report was written by Jessica Fagerlund in 2005 and has been updated by Sampo Brander in 2009. The latter author alone is responsible for the contents of the updated version.

² Government proposal (in Finnish, *hallituksen esitys*, abbreviation HE) 235/2002: 20.

³ HE 235/2002: 49.

Finland, as the number of foreigners and, consequently, applications for citizenship almost quadrupled over a decade. As a result, processing times of citizenship applications became unacceptably long and, on the other hand, deficiencies in the old Nationality Act of 1968 became more and more evident. With the adoption of the new Nationality Act, a change towards slightly more restrictive conditions for naturalisation, including stricter residence and language skills requirements (Section 13), can be observed. In accordance with this policy, a new mode of loss of citizenship—withdrawal on the basis of fraud—was introduced (Section 33).

The Åland Islands, located in the Baltic Sea between Finland and Sweden, are a region of specific interest with regard to citizenship matters in Finland. Besides being Finnish citizens, the majority of the Ålanders also possess a kind of regional citizenship called ‘right of domicile’, acquisition of which is subject to strict rules.

In the Finnish language, both *nationality* and *citizenship* can be translated by one term, *kansalaisuus*. This term means a person’s membership in a state and is mainly a legal concept, although it also has a political connotation, as it implies a person’s ability to participate in societal activities. The dichotomy of the English language does not exist in Finnish: *kansalaisuus* is the only possible translation of *citizenship* and the only possible translation of *nationality*, when nationality is used as a synonym of citizenship.

On the other hand, unlike *nationality* in English, *kansalaisuus* in Finnish has no reference to ethnic origin: the term used in this regard is *kansallisuus*—or, when *nationality* is used as a synonym of *nation*, *kansakunta* or *kansa*—and these terms have nothing to do with citizenship. Since there are so many possible translations of nationality, it is more suitable to translate *kansalaisuus* as citizenship, which is more unambiguous in this regard.

With respect to legislative translation, it is noteworthy that the Ministry of the Interior has used both terms in its unofficial English translation of the Act in force: the term used in the sections of the Act is citizenship,⁴ but the name of the Act, *kansalaisuuslaki*, has nonetheless been translated as ‘Nationality Act’. Accordingly, names of Finnish Acts are translated with the term nationality in this report, although the term used in general is citizenship.

2 Historical development

2.1 Citizenship in Finland before independence

Finland was an integral part of the Swedish Kingdom between the fourteenth century and 1809. Persons inhabiting this eastern part of the Kingdom at that time were consequently subjects of the Swedish King. Persons residing within the Swedish territory enjoyed the civil rights regulated in the Swedish National Law Code of 1734. Moving abroad led to the loss of these rights (e.g. right to inheritance). Women derived their rights from their husbands (Rosas & Suksi 1996: 268).

At that time, only people born in Sweden or Finland could be appointed to certain governmental offices. The Swedish monarch could, however, appoint

⁴ See e.g. definitions in sect. 2: ‘For the purposes of this Act: 1) citizenship [*kansalaisuus*] means a legislative bond between an individual and the State defining the individual’s status in the State as well as the basic rights and duties existing between the individual and the State [...]’.

foreigners to such offices on grounds of special achievements for the State. This can be regarded as a first kind of naturalisation arrangement (Rosas & Suksi 1996: 268–269).

As a result of the war between Sweden and Russia in 1808–1809, Sweden was forced to relinquish Finland to Russia. In March 1809, the Finnish Estates, assembled in the town of Porvoo, swore allegiance to the Russian Emperor Alexander I. According to Article 4 of the Peace Treaty of Hamina, signed the next autumn between Russia and Sweden, people residing in the ceded area were freed from their oath of allegiance to the Swedish Crown (Leitzinger 2009).

From 1809 to 1917, Finland was an autonomous Grand Duchy within the Russian Empire. The Russian Tsar assumed the position of Grand Duke of Finland, but the law applicable within the Grand Duchy was still the old Swedish law, most notably the 1772 Constitution Act and the 1789 Act of Union and Security. After the creation of this distinct constitutional and legal order, Finland constituted a political entity of its own, forming a part of Russia in international agreements, but a State under constitutional law for domestic purposes (Rosas & Suksi 1996: 269–270).

In the nineteenth century, Russian law did not recognise nationality or citizenship as a legal concept. The legislation did not talk about citizens; it only mentioned subjects of the Russian Empire (Jussila 1978: 5). However, citizenship was not an unknown concept for the Russians. This is evident from the expression used by the Grand Duke in 1809: he referred to citizens of Finland by using the French expression '*citoyens de la Finlande*' when granting the regulations for the Finnish Governmental Council. This can be considered as the origin of Finnish citizenship as a distinct legal concept. Furthermore, Finnish citizenship and naturalisation possibilities were mentioned in a number of resolutions thereafter (Rosas & Suksi 1996: 269–270).

It was clear from the beginning of the Grand Duchy period that Finns had a special position compared to other subjects of the Russian Empire. The use of the Russian, Swedish and Finnish languages, as well as decrees and acts applicable in Finland imply that being a Finnish subject was something other than being merely a Russian subject (Jussila 1978: 7). Finns were in a sense both Russian and Finnish subjects, while other subjects of the Russian governorate were merely considered subjects of the Russian Empire, and they did not enjoy civil rights in Finland. If they wished to enjoy such rights in Finland they had to become naturalised Finnish citizens. Finns, on the other hand, were not regarded as foreigners in the rest of the Russian Empire where they enjoyed all the same privileges as any other Russian subject (Screen 1978: 21). Foreigners who moved to Finland and became subjects under the Russian Empire were at the same time guaranteed civil rights in Finland, while foreigners moving to the territory of the Russian governorate did not automatically benefit from civil rights in the Grand Duchy of Finland (Jussila 1978: 9).

In 1858, a Decree was promulgated in Finland and Russia simultaneously regarding the registration in Finland of Russian subjects and foreigners residing in Russia.⁵ The Decree introduced a kind of naturalisation possibility by codifying customary procedures for the application for civil rights in Finland. First, an

⁵ *Förordning om Ryske undersåtares och i Ryssland vistande utlänningars inskrifning i Finland*, entry into force 20 March 1858.

individual application had to be made to the governor. The governor gave his opinion on the application and sent it to the Department of Economy at the Senate. After the Department had delivered its opinion, the application was decided upon by the Grand Duke. If the application was accepted, the applicant was registered in the parish where he wished to reside, and he then enjoyed most of the same rights as a Finnish subject born in Finland. The Russian nobility did, however, not enjoy the same rights as the Finnish nobility; instead they maintained their nobility rights in Russia (Jussila 1978: 14). The main rule was that if an applicant had had his permanent residence in Finland for the last three years, had a good reputation, and was able to support himself he could be naturalised in Finland. Naturalisation was extended to his wife and minor children. *Ius sanguinis* was the principle followed for persons born in Finland, but Finnish citizenship was only derived from a Finnish father, not from a Finnish mother. A Finnish citizen who took up residence abroad lost his Finnish citizenship (Rosas & Suksi 1996: 270–271).

2.2 The first Finnish Constitution and the first nationality laws of the Republic of Finland

On 6 December 1917, Finland declared itself an independent state. The Constitution Act of 1919⁶ was the newly independent Finland's first Constitution. In the Act there were two provisions relevant to the acquisition and loss of citizenship. The principle of *ius sanguinis* was laid down in Section 4, according to which everyone born to Finnish parents had the right to Finnish citizenship. Spousal transfer of citizenship was explicitly mentioned, i.e. Finnish citizenship was automatically transferred from a Finnish man to his foreign wife upon marriage. Transfer of citizenship was not possible the other way round, meaning that a Finnish woman could not pass her citizenship to a foreign husband. Section 4 also provided for legislation on the naturalisation of foreigners. According to Section 31, the President of the Republic had the power to grant Finnish citizenship to a foreigner and to release a person from Finnish citizenship.

The first Nationality Act⁷ was adopted in 1920 and regulated naturalisation of foreign citizens. A person who had lived for the last five years in Finland, had a good reputation and was able to support himself and his family could upon application acquire Finnish citizenship, provided that he lost or was freed from his former citizenship (Section 1). A wife and minor children would automatically acquire Finnish citizenship together with the husband/father (Section 2). A person who acquired Finnish citizenship would only be regarded as a Finnish citizen after he or she had taken an oath of allegiance before the county governor (Section 6).

The 1920 Nationality Act did not contain any provisions on loss of citizenship. Emigrated Finnish citizens consequently often ended up with dual citizenship or were

⁶ 94/1919 *Suomen hallitusmuoto*, entry into force 17 July 1919. – Laws, decrees and other statutes are officially published in *The Statutes of Finland* (in Finnish *Suomen säädöskokoelma*, between 1917–1980 *Suomen asetuskokoelma*). The official way to cite the source of laws is to announce the full name of the act, the number of the Statute and year, which with the above-mentioned Act would be '*Suomen hallitusmuoto 94/1919*'. In this report, however, the number of the Statute and year are announced before the name of act.

⁷ 33/1920 Act on the Grant of Finnish Citizenship to a Foreigner (*laki ulkomaalaisen ottamisesta Suomen kansalaiseksi*), entry into force 20 February 1920.

not able to acquire the citizenship of their new country if the new country did not accept dual citizenship. Therefore in 1927 this Act was complemented with an Act on the Loss of Finnish Nationality.⁸ Acquisition of foreign citizenship when taking up residence abroad resulted thereafter in the loss of Finnish citizenship (Section 1). This provision also made the first small step towards gender equality in nationality legislation by putting an end to the practice according to which a Finnish woman who married a foreign man automatically lost her Finnish citizenship: thereafter the loss was conditional on the actual acquisition of a foreign citizenship (Rosas & Suksi 1996: 272–273).⁹ A person without any close connections to Finland also lost his or her Finnish citizenship at the age of 22 (Section 2). The Act furthermore opened up the possibility for Finnish citizens to apply to the President for release from their Finnish citizenship (Section 4).

2.3 Nationality legislation in one single Act

In 1941, provisions on acquisition and loss of citizenship were included in one Act, the 1941 Act on Acquisition and Loss of Finnish Nationality.¹⁰ This Act was more detailed than its predecessors and was influenced by the nationality laws of the Nordic neighbours, as well as the 1930 Hague Congress on the Codification of International Law. Prevention of dual citizenship and statelessness were the principal aims of the Act, and gender equality was further promoted: children born out of wedlock and children born to stateless fathers acquired Finnish citizenship from their mother (Section 1), and facilitated naturalisation of foreign men marrying Finnish women was introduced (Section 4 (2)). Foundlings were, for the first time, mentioned in the Act (Section 2), and the oath of allegiance was abolished.

2.4 Consequences of the First and Second World Wars on citizenship

The territorial adjustments made with regard to the Finnish-Russian/Soviet border after the First World War as well as after the Winter War of 1939–1940 and the Continuation War of 1941–1944 had consequences for those living in the affected area. The Peace Treaty of Tartu in 1920¹¹ had resulted in the Pechenga (Petsamo) area becoming part of the Finnish territory. As a consequence, a number of Russians became residents of Finland. The Peace Treaty of Tartu contained a provision regulating the status of these persons, automatically making them Finnish citizens. Those who had reached eighteen years of age could opt for keeping their Russian citizenship and freely move to Russian territory. Persons who made use of this option were not deprived of their property rights in Pechenga (Rosas & Suksi 1996: 274).

⁸ 181/1927 *Laki Suomen kansalaisuuden menettämisestä*, entry into force 1 January 1928.

⁹ The major reason for this change was the new practice adopted by the United States of America in 1922, prescribing that a foreign woman would no longer automatically acquire the citizenship of her American husband upon marriage. As a consequence, a Finnish woman marrying an American man became stateless. By making acquisition of another citizenship a condition for losing Finnish citizenship when taking up residence abroad, such a situation was avoided.

¹⁰ 325/1941 *Laki Suomen kansalaisuuden saamisesta ja menettämisestä*, entry into force 1 July 1941.

¹¹ FTS 1/1921. In Finland international treaties are officially published in the *Treaty Series of the Statutes of Finland*, which can be abbreviated as *Finnish Treaty Series* or *FTS* (in Finnish the name is *Suomen säädöskokoelman sopimussarja*, before 1981 *Suomen asetuskokoelman sopimussarja*, and abbreviation *SopS*). The numbering of treaties in FTS is not related to the numbering of domestic acts in the Statutes of Finland.

According to the 1940 Peace Treaty of Moscow¹² (which put an end to the Winter War) Finland had to cede territories, most notably Karelian Isthmus and Ladoga Karelia, to the Soviet Union. The few persons who had remained in these areas were regarded as having lost their Finnish citizenship. During the Continuation War, Finland temporarily reacquired areas that had been occupied by the Soviet Union during the Winter War. An Act was consequently adopted in order to make it possible for people who had remained in the occupied areas to regain their lost Finnish citizenship by declaration.¹³ Those who had in the meantime been moved to the territory by the Soviet Union were treated as foreigners and did not benefit from the right to facilitated acquisition of Finnish citizenship by declaration (Rosas & Suksi 1996: 274).

A group which was specifically mentioned in the 1941 Nationality Act were Ingrian and East Karelian refugees, who had arrived to Finland after the First World War and during the Second World War. Finland had claimed, in vain, the territories of Ingria and East Karelia in the negotiations of the 1920 Peace Treaty of Tartu. During the Continuation War, Finland temporarily advanced over the old frontier to these territories. According to Sections 13 and 14 of the 1941 Nationality Act, children of Ingrian or East Karelian refugees, who had an ethnic Finnish origin, could acquire Finnish citizenship by declaration: the condition was that they were born in marriage in Finland or out of wedlock to a refugee woman. This is the only time that ethnicity has been of significance to Finnish citizenship law (Rosas & Suksi 1996: 273–274).¹⁴

2.5 Gender equality and Nordic influences

A major change to Finnish citizenship legislation was realised in 1968, as the constitutional provision regarding citizenship was amended and a new Nationality Act and an executive Nationality Decree were adopted: all these amendments entered into force on 1 July 1968. Equality between spouses regarding the acquisition of Finnish citizenship was introduced in the Act amending Section 4 Subsection 1 of the Constitution Act,¹⁵ with the rule on automatic acquisition of Finnish citizenship by a foreign woman marrying a Finnish man finally being abolished. While Finland is seen as a pioneer of women's rights — being the first European country to accept women's right to vote in 1906 — it is remarkable that Finland was one of the last European countries to introduce gender equality in this regard.

The 1968 Nationality Act¹⁶ which replaced the previous Act on Acquisition and Loss of Finnish Nationality of 1941, also introduced the possibility of facilitated

¹² FTS 3/1940.

¹³ 838/1941 Act on the Citizenship of Certain Inhabitants of Areas Returned to the Realm (*laki eräiden valtakunnan yhteyteen palautetun alueen asukkaiden kansalaisuudesta*), entry into force 6 December 1941.

¹⁴ Under the provisions of the Interim Peace Treaty of 19 September 1944 (FTS 4/1944), which put an end to the Continuation War, all Ingrian and East Karelian Finns who had been Soviet citizens (and who were unable to escape to a third country) were returned to the Soviet Union. During the War many of these ethnic Finns with Soviet citizenship had joined the Finnish army, as they had been given to believe that they would acquire Finnish citizenship in exchange. The right to facilitated acquisition of Finnish citizenship for descendants of Ingrian and East Karelian refugees was legally abolished with the enactment of the 1968 Nationality Act.

¹⁵ 518/1967 Laki hallitusmuodon 4 §:n 1 momentin muuttamisesta, entry into force 1 July 1968.

¹⁶ 401/1968 Kansalaisuuslaki, entry into force 1 July 1968.

discretionary naturalisation for the spouses of Finnish citizens, regardless of gender (Section 4 (2)). The provision was very vague, stating merely that a person married to a Finnish citizen could be naturalised despite normal requirements not being fulfilled.¹⁷ The 1968 Act also facilitated acquisition of Finnish citizenship for women who had lost their Finnish citizenship due to marriage to a foreign man or because their spouses had acquired foreign citizenship (Section 15 (4)): these women could reacquire Finnish citizenship by submitting a declaration within five years of the entry into force of the Act. These amendments made the Finnish accession to the United Nations Convention on the Nationality of Married Women (1957) feasible. Finland ratified the Convention on 15 May 1968.¹⁸

The prevention of statelessness was also taken one step forward by the 1968 Nationality Act. Children born in Finland who would otherwise become stateless now automatically acquired Finnish citizenship at birth (Section 1 (1)(4)). The basis for this change is found in the Convention on the Reduction of Statelessness (1961), even though Finland did not ratify the Convention until 40 years later.¹⁹ Finland did however accede to another treaty in October 1968, the United Nations Convention relating to the Status of Stateless Persons (1954),²⁰ which states in Article 32 that the ‘Contracting States shall as far as possible facilitate the [...] naturalization of stateless persons.’ Due to cooperation with the other Nordic countries on citizenship matters, Finland made a general reservation to this Convention still allowing citizens of the Nordic countries to receive special rights and privileges.

Following the 1962 Nordic Treaty of Co-operation²¹ and a recommendation of the Nordic Council (number 1–1964), facilitated acquisition of Finnish citizenship for Nordic citizens was introduced in the 1968 Nationality Act. As a consequence of this change, the normal requirement of five years of habitual residence was not applicable to citizens of the other Nordic countries who wished to be naturalised in Finland (Section 4 (2)). No specific time of habitual residence was mentioned in the law for Nordic citizens, but in practice two years was sufficient (Rosas & Suksi 1996: 289).²²

One major reform in the 1968 Nationality Act was the introduction of the declaration procedure for acquisition of citizenship. This innovation was also due to Nordic cooperation: in compliance with the Nordic Agreement of 1950, the declaration procedure was made applicable to citizens of the other Nordic countries who for the past seven years had had their habitual residence in Finland (Section 10 (4)). Acquisition of citizenship by declaration for former Finnish citizens who in the meantime had been citizens of another Nordic country was also facilitated. These former citizens acquired Finnish citizenship immediately when they resettled in Finland (Section 10 (5)). Finland consequently acceded to the Nordic Agreement in 1969.²³

¹⁷ In 1968, normal requirements included five years of habitual continuous residence in Finland, that the applicant was eighteen years of age or older, and that he or she was living a respectable life and had a secure income (sect. 4 (1)).

¹⁸ FTS 32/1968.

¹⁹ See Section 2.9 below.

²⁰ FTS 80/1968 and 56/1970.

²¹ Treaty of Co-operation between Denmark, Finland, Iceland, Norway and Sweden (the so-called Helsinki Treaty), FTS 28/1962. According to art. 3 of the Treaty, the Parties must facilitate the acquisition of citizenship for citizens of the Nordic countries in another Nordic country.

²² HE 235/2002: 6.

²³ Agreement on the Implementation of Certain Rules on Citizenship concluded between Denmark,

A new provision in the 1968 Act stipulated that former Finnish citizens who had been continuously resident in Finland until the age of eighteen could reacquire their Finnish citizenship by declaration after two new years of residence in Finland (Section 6). The Nordic Agreement was also of significance with regard to this provision, as it stated that habitual residence in one of the other contracting states before the age of twelve should count as residence in Finland (Section 10 (3)). Finally, the rules on acquisition of Finnish citizenship by declaration for second-generation immigrants can equally be traced back to the Nordic cooperation of 1968–1969.²⁴

A major change that the 1968 Nationality Act and Nationality Decree²⁵ brought about at this point in time was that the Ministry of the Interior became the main authority involved in decisions on the acquisition and loss of Finnish citizenship. The Ministry was even given the final power of decision in the new declaration procedure (Section 12 of the Act), but the President of the Republic remained the formal decision-making authority in other modes of acquisition and loss of citizenship.

2.6 Major amendments to Finnish nationality legislation in 1984

The 1968 Nationality Act became the subject of major amendments in 1984.²⁶ Again, gender equality was taken one step further as parents were put on a more equal footing than before. Previously, the main principle was that children born in wedlock derived their citizenship from their father. From this point on however, a Finnish mother would always pass her Finnish citizenship to her children (Section 1). Gender equality was consequently a reality for children born in wedlock. This amendment made possible the Finnish ratification of the International Convention on the Elimination of all Forms of Discrimination against Women on 4 September 1986.²⁷

Adopted children were mentioned for the first time in Finnish nationality legislation in 1984. The amended Act introduced the possibility of adopted children acquiring Finnish citizenship by declaration (Section 3b).²⁸ Furthermore, the Act elaborated on the prevention of statelessness by making it a condition for being released from Finnish citizenship that the said person would not become stateless (Section 9). Finally, the amendments introduced a new practice with regard to children of fifteen years or older, who could no longer acquire or be released from their Finnish citizenship against their will (Section 12a).

In 1985, a new Nationality Decree²⁹ was consequently promulgated following the amendments of the 1968 Nationality Act. This Decree introduced a new feature by

Finland, Norway and Sweden, FTS 11/1969. Iceland acceded to the agreement in 1998.

²⁴ Foreigners who were born in Finland and had lived there continuously could submit a declaration to acquire citizenship between 21 and 23 years of age (sect. 5 (1)). For this group of immigrants habitual residence in another Nordic country was regarded as equal to residence in Finland provided that such residence took place before the age of sixteen and more than five years before the declaration was made (sect. 10 (2)).

²⁵ 402/1968 *Kansalaisuusasetus*, entry into force 1 July 1968.

²⁶ 584/1984 Act amending the Nationality Act (*laki kansalaisuuslain muuttamisesta*), entry into force 1 September 1984.

²⁷ FTS 67-68/1986.

²⁸ Such a declaration could be made immediately after a child had been adopted, provided that the adoption was valid in Finland and that at least one of the adoptive parents was a Finnish citizen.

²⁹ 699/1985 *Kansalaisuusasetus*, entry into force 1 September 1985.

providing that a citizenship application should enclose, among other things, an account of skills in the Finnish or Swedish language (Section 1 (2)). It is noteworthy that the language skills requirement was provided only on the decree level, since there was no mention of language skills in the 1968 Nationality Act.³⁰

2.7 Institutional amendments during the 1990s and new case law

In 1995, the task of processing of citizenship matters was transferred from the Ministry of the Interior to the Directorate of Immigration, a new administrative agency subordinated to the said Ministry. The Directorate was thereafter in charge of matters related to immigration, residence, refugee issues and Finnish citizenship.³¹

The formal decision-making power in citizenship affairs stayed, nevertheless, in the hands of the President of the Republic until 15 August 1998, when this authority too was transferred to the Directorate of Immigration.³² A major consideration behind this amendment was the need to make the processing of citizenship matters more effective.³³ At the same time, a right of appeal was introduced: according to the new Section 13a of the Nationality Act, decisions of the Directorate of Immigration could be appealed to a County Administrative Court (from 1 November 1999, to an Administrative Court).³⁴ Decisions made by this Court could be further appealed to the Supreme Administrative Court. The relevant case law in citizenship matters in Finland has therefore been developing only since August 1998.³⁵

The vast majority of citizenship cases in the Supreme Administrative Court under the 1968 Nationality Act have concerned the conditions of discretionary naturalisation of Section 4 (1) (18 years of age, five years of habitual continuous residence in Finland, a respectable life and a secure income) and exceptions that could be made to them according to Section 4 (2). Especially appeals regarding the requirement of respectable life played a central role: in these cases, the Court usually considered the effect of different kind of punishments under criminal law to the requirement, and the importance that should be given to the passage of time after the punishable act. The Directorate of Immigration had in its administrative practice defined a waiting period after the crime, during which the naturalisation was possible only exceptionally. The Supreme Administrative Court made probably its most important decision under the 1968 Nationality Act on 3 August 2000, when it took the

³⁰ Besides the language skills requirement, the Decree included mainly procedural provisions, which were slightly more detailed than in the previous Nationality Decree of 1968, and the language was modernised.

³¹ Amendments were made to the 1968 Nationality Act and the 1985 Nationality Decree in this regard: 155/1995 Act amending the Nationality Act (*laki kansalaisuuslain muuttamisesta*) and 223/1995 Decree amending the Nationality Decree 699/1985 (*asetus kansalaisuusasetuksen (699/85) muuttamisesta*), entry into force 1 March 1995.

³² 480/1998 Act repealing sect. 31 of the Constitution Act of Finland (*laki Suomen Hallitusmuodon 31 §:n kumoamisesta*), 481/1998 Act amending the Nationality Act (*laki kansalaisuuslain muuttamisesta*), 482/1998 Decree amending the Nationality Decree (*asetus kansalaisuusasetuksen muuttamisesta*), entry into force of all 15 August 1998.

³³ HE 49/1998.

³⁴ 430/1999 Act on Administrative Courts (*hallinto-oikeuslaki*), sect. 24 (3).

³⁵ Before this amendment, an appeal was possible only against decisions made in the declaration procedure by the Ministry of the Interior and, after 1 March 1995, by the Directorate of Immigration: appeal was to the Supreme Administrative Court. The decisions of the President were subject to an extraordinary remedy only (Pere 2008: 351; Rosas & Suksi 1996: 294–295).

view that the waiting period does not run during the appeal proceedings before the Court: all the conditions of naturalisation should be met at the moment when the decision is made by the Directorate of Immigration (Pere 2008: 357–359).³⁶

Two other important decisions were made on 3 November 2000, when the Supreme Administrative Court confirmed the administrative practice according to which an established identity was a basic condition for naturalisation.³⁷ The decree-based language skills requirement, on the other hand, was not specified in case law. In the established administrative practice it had been interpreted to mean satisfactory oral skills in Finnish or Swedish (Pere 2008: 359–360).

The new Constitution of Finland, which repealed the Constitution Act of 1919, was adopted on 11 July 1999 and entered into force on 1 March 2000.³⁸ Citizenship issues are treated in Section 5, according to which Finnish citizenship is acquired at birth and through the citizenship of parents, or upon declaration or application, as determined in more detail by an Act. A new provision in Subsection 2 sets the condition that voluntary or involuntary loss of citizenship is possible only if the person concerned is in possession of, or will be granted the citizenship of, another State. The prevention of statelessness has thus been elevated to a constitutional principle.

2.8 The political and legislative process leading to the enactment of the new Nationality Act

In addition to the above-mentioned amendments, plans of a more general reform of nationality legislation started to evolve during the 1990s. These ideas were partly due to shortcomings of the 1968 Nationality Act which were highlighted by the considerable growth of the immigrant population and, therefore, the number of citizenship applications in Finland. On the other hand, there were also external influences for the reform, as the lobbying work of Finnish expatriate groups and views presented in other Nordic countries created pressure for the acceptance of dual citizenship. New legislation was equally needed to enable Finland's accession to the 1997 European Convention on Nationality and the 1961 United Nations Convention on the Reduction of Statelessness.

A principal consideration behind the reform was that the old Nationality Act was deficient and partly outdated. There were major inadequacies with regard to the legal safeguards and definitions of the requirements for naturalisation, as the provisions of the old Act had a rather general character. The requirements for acquiring Finnish citizenship were not clear enough for an applicant to know beforehand whether he or she would be granted Finnish citizenship upon application. The shortcomings of the Act were largely compensated by the 1985 Nationality Decree and various ministerial briefs. As the new 2000 Finnish Constitution states in its Section 5 that the rules for acquisition and loss of Finnish nationality shall be

³⁶ KHO 3.8.2000 T 2096, LRS. 'KHO' is the abbreviation of *korkein hallinto-oikeus*, the Supreme Administrative Court in Finnish. According to *Pere*, a major argument behind this solution adopted by the Supreme Administrative Court was that if the running of the waiting period during the administrative procedure had been accepted, it would have resulted in a great number of appeals merely due to this procedural advantage. *Pere* nevertheless points out that in Swedish case law the running of the waiting period has been taken into account in similar situations.

³⁷ KHO 3.11.2000 T 2771 and 2772.

³⁸ 731/1999 *Suomen perustuslaki*.

stipulated in a Parliamentary Act, the above-mentioned practice of decrees and ministerial briefs was not legally satisfactory. Furthermore, the legal safety of an individual applicant was not satisfactorily guaranteed, as the mandates and duties of the authorities involved in the procedure were not clearly stipulated. This indeed had a negative impact on the efficiency and expediency of the procedure.³⁹

When the previous Nationality Act was passed in 1968, the immigrant population was small, and it was mostly foreign spouses of Finnish citizens who were naturalised. In the 1990s, the picture had changed and more often foreign families took up residence in Finland and wished to be naturalised. Immigration to Finland started to increase considerably in the 1990s. At the beginning of the decade, 26,300 foreigners were living in Finland. In 1995, the number was 68,800, in 2000 91,100 and in 2002 103,700 (Migri 2009b), meaning that the number of foreigners almost quadrupled between 1990 and 2002. The increase in the total number of citizenship applications and acquisitions of Finnish citizenship reflected this increase. Between 1991 and 1995, on average only 1,027 applications were submitted and 854 persons were granted Finnish citizenship each year, whereas between 1996 and 2000, the respective figures were 2,637 and 2,829 (Statistics Finland 2009a).⁴⁰ It was evident that the rules on acquisition and loss of Finnish citizenship had to be adapted in order to reflect this change in the immigration pattern.

Discussions on a new Nationality Act had already started at the beginning of the 1990s. They evolved largely around the issue of multiple citizenship. A reform of the old Nationality Act was however not initiated until 1997, under a coalition government led by the Social Democratic Party. The Ministry of the Interior in charge of citizenship matters was at that time headed by Jan-Erik Enestam, a minister from the Swedish People's Party, a party mainly representing the Swedish-speaking population of Finland. He expressed resistance to accepting multiple citizenship and referred to the ongoing debate in the other Nordic countries on the issue. Work on the reform was consequently temporarily interrupted that year in order to follow the developments in the other Nordic countries that had likewise started revising their nationality legislation (Peltoniemi 2003).⁴¹ The Finland Society⁴² and the Finnish Expatriate Parliament⁴³ were among the driving forces initiating and supporting legislation that would accept multiple citizenship. The Finnish Expatriate Parliament had, ever since it was established in 1997, had the acceptance of multiple citizenship as a central goal (Peltoniemi 2003). In December 1999, the Social Democrat Riitta Prusti presented an initiative according to which multiple citizenship would be

³⁹ HE 235/2002: 15.

⁴⁰ Two important reservations must be made regarding these figures. First, the total number of applications includes also the small number of applications for release from Finnish citizenship. There are no statistics available on the number of naturalisation applications only. Secondly, the number of people who were granted citizenship includes all acquisitions, both by application and declaration. The figures above should therefore be understood only as a general illustration of the trends in the 1990s.

⁴¹ See also HE 49/1998 and KK 335/2000 ('KK' stands for *kirjallinen kysymys*, written question by a Member of Parliament to the Government), Accepting dual citizenship for persons born in Finland and residing outside the Nordic countries (*Pohjoismaiden ulkopuolella asuville Suomessa syntyneille myönnettävä kaksoiskansalaisuus*), Raimo Vistbacka/True Finns Party.

⁴² The Finland Society, founded in 1927, is an interest group providing expertise and service to Finnish expatriates, and Finns moving abroad. The Society furthermore conveys an up-to-date image of Finland to the outside world and raises awareness in Finland about Finnish expatriates.

⁴³ The Finnish Expatriate Parliament, founded in 1997, is a cooperative forum and promoter of interests for all Finns living abroad. At the Parliament Finnish expatriates living around the world come together and decide collectively on issues that are of importance for them.

accepted.⁴⁴ It was signed by 103 of the 200 Members of Parliament from the whole spectrum of parties. This initiative was later included in the proposition for a new Nationality Act.

The acceptance of multiple citizenship was further facilitated by Nordic considerations. Sweden, as the country with the greatest number of Finnish expatriates, accepted multiple citizenship in 2001, when the new Swedish Nationality Act entered into force.⁴⁵ When the Finnish Nationality Act of 2003 was adopted, the impression was that Norway — which was also working on a new Nationality Act — was going to accept multiple citizenship as well.⁴⁶

There seems to have been a general acceptance between the political parties with regard to all issues regulated in the new Nationality Act. As a result of the intense lobbying work of the Finnish expatriates and the above-mentioned Nordic considerations, the political parties were to a large extent in agreement on accepting multiple citizenship. The political debate on the issue was therefore rather tame.⁴⁷ All other proposed important changes, for example the introduction of a language requirement in the Act and the strengthened residence requirement (from five to six years) were not debated at all, but tacitly accepted.⁴⁸ This almost non-existent political debate can at least partly be explained by the fact that even after the considerable increase in immigration during the 1990s, the number of foreigners in Finland was still quite small compared to many European countries: at the end of 2002, of a total population of 5.2 million, less than 104,000 (approximately 2 per cent) had foreign citizenship (Migri 2009b and Statistics Finland 2009b).⁴⁹ Consequently, the introduction of new requirements for acquisition of citizenship has consequences for a smaller group of persons in Finland than in many other European countries.

In April 2000, the work on the reform of the nationality legislation was resumed at the Ministry of the Interior, now headed by a minister from the National Coalition Party, but still under a coalition government headed by the Social Democratic Party. The Act was drafted in cooperation with the Directorate of Immigration. The Bill for the new Nationality Act was introduced in Parliament in 2002. The only entity with critical remarks about the introduction of multiple citizenship was the Ministry of Defence that drew attention to the risk to national security that multiple citizenship might cause, e.g., by making espionage easier.⁵⁰

On 24 January 2003, still under the same government as in April 2000 when

⁴⁴ LA 180/1999 (‘LA’ stands for *lakialoite*, legislative motion), Act amending the Nationality Act (*laki kansalaisuustlain muuttamisesta*), Riitta Prusti/Social Democratic Party.

⁴⁵ *Lag om svenskt medborgarskap*, Swedish Code of Statutes SFS 2001:82.

⁴⁶ The Norwegian Parliament adopted the new Norwegian Nationality Act on 8 June 2005. The Act does not accept multiple citizenship. Even though the Norwegian Official Report on a new Nationality Act was in favour of multiple citizenship, the Ministry of Local Government and Regional Development took a negative view. See the proposition to the *Odelsting*: Ot.prp. nr. 41 (2004-2005) *Om lov om norsk statsborgerskap*.

⁴⁷ Information provided by researcher Jussi Ronkainen at the University of Joensuu in an e-mail of 7 June 2005.

⁴⁸ Information provided by Tiina Suominen, nationality division director at the Directorate of Immigration, in a telephone conversation on 15 September 2005.

⁴⁹ It must be added that these figures do not reveal the whole truth of the number of persons with a foreign origin, as the number of first- and second-generation immigrants is a bit higher than the number of persons with a foreign citizenship living in Finland. There are no statistics available on the number of first- and second-generation immigrants in Finland.

⁵⁰ Information provided by Jussi Ronkainen, University of Joensuu.

work on the Act was resumed, the Finnish Parliament passed the Bill for the new Nationality Act, which was backed by all major political parties. The Act entered into force on 1 June 2003 and repealed the 1968 Nationality Act and the 1985 Nationality Decree with their later amendments.⁵¹ A new Nationality Decree⁵² was issued in August 2004, now by a new Government formed of the Centre Party, the Social Democratic Party and the Swedish People's Party. The contents of these two provisions will be explained in detail in Section 3.

2.9 Amendments after 2003

After its entry into force, the new Nationality Act has been subject to only some small technical amendments resulting from amendments to other pieces of legislation. For example, in 2007, Sections 44, 47 and 50 of the Nationality Act were amended to enable e-transactions with the authorities according to the Act on Electronic Services and Communication in the Public Sector (13/2003).⁵³ In the beginning of 2008, the name of the Directorate of Immigration was changed to the Finnish Immigration Service.⁵⁴

One important aim behind the 2003 Nationality Act had been to provide for Finland's accession to the 1997 European Convention on Nationality and the 1968 UN Convention on the Reduction of Statelessness. This goal was finally achieved in August 2008, when Finland ratified the conventions.⁵⁵ After these accessions, Finland is no longer outside any important international convention on citizenship issues.

3 The current citizenship regime

As there have been no major amendments after 2003, the current citizenship regime in Finland is based on the 2003 Nationality Act and the 2004 Nationality Decree. The new Act and the new Decree spell out the modalities of acquisition and loss of Finnish citizenship and they regulate the mandate and duties of the responsible authorities. They give in-depth meaning to the main principles mentioned in the constitutional provision on acquisition of Finnish citizenship, and they make up the core of Finnish nationality legislation.

⁵¹ 359/2003 *Kansalaisuuslaki*, entry into force 1 June 2003.

⁵² 799/2004 Government Decree on Nationality (*valtioneuvoston asetus kansalaisuudesta*), entry into force 1 September 2004.

⁵³ 620/2007 Act amending the Nationality Act (*laki kansalaisuuslain muuttamisesta*), entry into force 1 June 2007. Other technical amendments have been adopted in 2005 and in 2009. In the former (596/2005 Act amending sect. 48 of the Nationality Act, *laki kansalaisuuslain 48 §:n muuttamisesta*, entry into force 1 September 2005), the reference to the person registers of the Border Guard in sect. 48 was changed to adapt the new provisions on these registers. In the latter (327/2009 Act amending sects. 15 and 20 of the Nationality Act, *laki kansalaisuuslain 15 ja 20 §:n muuttamisesta*, entry into force 1 June 2009), references to residence permits based on the need of protection in sects. 15 and 20 were amended in accordance with a general amendment of the Aliens Act (301/2004), as these residence permits were replaced by 'residence permits based on secondary protection and humanitarian protection'.

⁵⁴ 974/2007 Act amending the Nationality Act (*laki kansalaisuuslain muuttamisesta*) and 1105/2007 Government Decree amending the Government Decree on Nationality (*valtioneuvoston asetus kansalaisuudesta annetun valtioneuvoston asetuksen muuttamisesta*), entry into force 1 January 2008.

⁵⁵ FTS 93–95/2008 and 96–97/2008.

3.1 The major principles of the 2003 Nationality Act

As mentioned in the history section, political intentions behind the new Nationality Act of 2003 were manifold. Acceptance of multiple citizenship, prevention of statelessness and gender equality were among the principal considerations behind the Act. The need for a more detailed law reducing the different possible interpretations of the old Act was also a factor of significance in the work towards a new Nationality Act.

The acceptance of multiple citizenship

The main novelty in the Nationality Act of 2003 is the acceptance of multiple citizenship. Loss of Finnish citizenship is no longer a consequence of the acquisition of a foreign citizenship. Nor does the new Act include a requirement of renunciation of former citizenships when acquiring Finnish citizenship. The new Act furthermore facilitated the reacquisition of Finnish citizenship by persons who had lost their Finnish citizenship due to the earlier prohibition of multiple citizenship.

In Finland, multiple citizenship had been considered problematic with regards to voting rights, military service, consular assistance and the security of the Republic. A main argument against multiple citizenship was that it was not considered expedient that a person who took up residence abroad would retain his or her Finnish citizenship when acquiring a foreign citizenship. Nor was it considered expedient that Finnish citizenship would be passed on from one generation to another for those with little or no connection to Finland. Security reasons also spoke in favour of non-acceptance of multiple citizenship. Due to the risk of loyalty conflicts, it was not considered recommendable that minorities with multiple citizenship should evolve.⁵⁶

As explained in the history Section, the growing tendency internationally and the increasing willingness nationally to accept multiple citizenship led Finland to reconsider its views on the matter in the 1990s. A major argument for accepting multiple citizenship was the positive implications for the individual. Another argument was that acceptance of multiple citizenship would contribute to preserving contact with emigrant and diaspora populations abroad. Furthermore, it was now considered to be in the interest of the Finnish Republic that immigrants who had taken up permanent residence in Finland should acquire Finnish citizenship. It was considered important that after the integration phase the foreign population would acquire full rights and obligations in order to participate in Finnish society. Despite the arguments against multiple citizenship, the overall picture was still that multiple citizenship would better serve the interests of Finland.⁵⁷

Prior to the law reform, citizens of certain states had difficulty in acquiring Finnish citizenship because the legislation of their state of nationality made renunciation of their citizenship impossible. These included citizens of Iran, the former Yugoslavia, and Algeria.⁵⁸ In practice, however, such citizens were exempted from the requirement to renounce their former citizenship.⁵⁹ Even though it was

⁵⁶ HE 235/2002: 6; KK 335/2000.

⁵⁷ HE 235/2002: 17.

⁵⁸ Information provided by the Refugee Advice Centre, a Finnish non-governmental organisation, in 2005.

⁵⁹ HE 235/2002: 6, 38.

already possible for this group to acquire Finnish citizenship prior to the reform, the reform made the exemption procedure superfluous and acquisition of Finnish citizenship easier.

Other groups benefiting from the acceptance of multiple citizenship were former Finnish citizens, descendants of Finnish citizens and descendants of former Finnish citizens who lost their Finnish citizenship or were not granted Finnish citizenship due to the previous prohibition of multiple citizenship. These groups were given a right to (re)acquire Finnish citizenship by declaration during a transitional period of five years (Section 60); it is worth noting that habitual residence in Finland was not a requirement for such former Finns and Finnish descendants for acquisition of Finnish citizenship.

During the five-year transitional period, which was in force from 1 June 2003 to 31 May 2008, 19,264 declarations based on Section 60 were submitted to the Finnish Immigration Service (before 2008, the Directorate of Immigration): these declarations concerned 21,841 persons.⁶⁰ This number was not quite as high as was originally expected (5,000 declarations each year) (UVI 2004). It is noteworthy that almost half of the declarations (47.3 per cent) were submitted during the last five months of the transitional period (Migri 2009a: 3). The fact that many former citizens waited so long before submitting a declaration was probably at least partly due to the declaration fee, which was originally €300 and later €240 for adults. This was considered by many to be out of proportion, and it was thus hoped that the fee would be reduced before the end of the transitional period, which did not happen.

The five biggest citizenship groups among persons concerned in declarations submitted in accordance with Section 60 were Swedes (5198), citizens of the United States of America (4222), Canadians (3622), Australians (2898) and Germans (1379), these groups representing almost four fifths (79 per cent) of the total number of persons concerned. Until the end of 2008, in total 12,756 persons had been granted Finnish citizenship according to Section 60. The goal is for all of these declarations to be resolved by the end of 2009 (Migri 2009a: 4–7).⁶¹

Gender equality regarding ius sanguinis

The 2003 Nationality Act followed the trend of many earlier amendments to Finnish nationality legislation by promoting gender equality: this time, nevertheless, it was the position of men which was improved as both parents were put in a more equal position in cases where a child's citizenship is determined by *ius sanguinis* (Section 9). A child will always acquire Finnish citizenship from the mother, no matter whether the child is in her custody or not (Section 9 (1)(1)). The same applies to a Finnish father who is married to the child's mother (Section 9 (1)(2a) and (3a)). The novelty of the new Act is that a child born out of wedlock to a Finnish father and a foreign mother now acquires Finnish citizenship at birth provided that paternity has been established and the child is born in Finland (Section 9 (1)(2b) and (3b)). A child born abroad, out of wedlock, to a foreign mother and a Finnish father acquires Finnish

⁶⁰ The number of persons concerned is larger than the number of declarations, since the same declaration could be used to acquire citizenship for children in the custody of the person submitting a declaration.

⁶¹ At the beginning of June 2009, there were fewer than 3,700 unresolved citizenship declarations which had been submitted by former Finnish citizens and their descendants (Migri 2009d). See section 3.1 on the procedure of acquisition of citizenship below.

citizenship after birth through legitimation, that is to say when his or her parents get married, provided that paternity has been established (Section 11). If the Finnish father and the foreign mother of a child born abroad do not get married, the child can acquire Finnish citizenship by declaration (Section 26 (2)). It can be summarised that since 2003 a child born out of wedlock to a Finnish man is always entitled to Finnish citizenship on condition that paternity has been established. If paternity has been established abroad, additional acts are normally needed: the father must acknowledge his paternity and it has to be confirmed by a decision of the local registry office in Finland. If paternity is established in any of the Nordic countries, it is considered valid in Finland (Migri 2008a).

By making the acquisition of Finnish citizenship possible in cases where either of the parents is a Finnish citizen, the conditions of Article 6 (1) of the European Convention on Nationality, signed by Finland in 1997, were met. Finland finally ratified the Convention on 6 August 2008.

Another aim of the new Act was to approximate the rights of an adoptive child to that of a biological child. Adopted children under twelve years of age now automatically acquire Finnish citizenship (Section 10). Adopted children twelve years of age or older may acquire Finnish citizenship by declaration (Section 27). The declaration procedure for adopted children over twelve has little practical use, as it is rather uncommon to adopt older children from foreign countries. Three declarations of this kind were submitted to the Finnish Immigration Service in 2008 and nine in 2007 (Migri 2009a: 3).

Prevention of statelessness behind ius soli provisions

As a logical consequence of Section 5 of the 2000 Constitution—which states that loss of Finnish citizenship may not lead to statelessness—the new Nationality Act has as a major aim the prevention of statelessness. The Act adopts the constitutional principle by introducing a provision stipulating that a person cannot lose or be released from Finnish citizenship if this would lead to statelessness (Section 4). Prevention of statelessness is also behind secondary provisions of *ius soli* in Section 9. According to a new provision in Section 9 (2), children of recognised refugees or parents who have otherwise been provided protection against the authorities of their State of citizenship will acquire Finnish citizenship at birth if they are born in Finland and do not acquire the citizenship of their parents without a procedure requiring the assistance of the authorities of the parents' State of citizenship.

Finnish citizenship is also acquired by a child who would otherwise become stateless, meaning that he or she does not even have a secondary right to acquire the citizenship of any other State (Section 9 (1)(4)). According to the government proposal, the existence of this secondary right depends on the legislation of the parents' State of citizenship: if citizenship must be applied and the deciding authority has discretionary power, the child does not have a 'right' but only a possibility to acquire his or her parents' citizenship.⁶² It is noteworthy that there was no kind of additional condition of a secondary right in Section 1 (1)(4) of the 1968 Nationality Act, which guaranteed that stateless children could not be born in Finland. Under the new Nationality Act it is possible that a child born in Finland may remain 'voluntarily

⁶² HE 235/2002: 35.

stateless' according to the definition in Section 2 (1)(4)⁶³, if the secondary right to a foreign citizenship exists and parents choose not to use it.

A fourth provision promoting prevention of statelessness is Section 12, which concerns foundlings and children born in Finland to parents of unknown citizenship.⁶⁴ These children are considered Finnish citizens as long as they have not been established as citizens of foreign State. If foreign citizenship is established after the child has reached the age of five, Finnish citizenship is retained. The provision on foundlings is based on Article 2 of the UN Convention on Reduction of Statelessness, which was ratified by Finland on 7 August 2008.

The *ius soli* provisions of Sections 9 and 12 have proved difficult to apply. It has happened once that a refugee family who had had a child in Finland was deported, it being later discovered that their child had acquired Finnish citizenship. After this incident the professional training provided for civil servants of the Asylum Unit of the Finnish Immigration Service has been strengthened and a new administrative practice has been created: before a deportation decision is taken, it has to be made sure that the persons concerned do not have a child who would be a Finnish citizen.⁶⁵

The principle of established identity

One new feature of the 2003 Nationality Act was that the requirement of established identity, which had been set down in previous administrative practice and confirmed by the Supreme Administrative Court, was expressly written into the law (Section 6). It is a central principle which applies to all decisions about acquisition of citizenship: other conditions for acquisition are not even examined if the identity of an applicant is considered unclear.⁶⁶ In the case law of the Supreme Administrative Court, 'identity' has been interpreted to include name, date of birth and citizenship.⁶⁷

According to Section 6 (2), identity can be established 'by means of documents or by providing other information which is considered reliable on the person's name, date of birth, family relations and other personal data necessary to decide the matter'. If reliable documents are missing, as it is often the case with e.g. asylum-seekers, it has been considered in administrative practice and case law that naturalisation is possible if a party has at all times used the same identity which has been entered to the population information system. If the party has used a forged travel document, he or she should proclaim it when entering the country. The situation is more difficult if a party for whom reliable documents are lacking has used several identities or changed identity information entered to the population information system. For example, identity was not considered established where a person had proclaimed his identity to be wrong after having used it for four months in Finland.⁶⁸ The result was the same for an asylum seeker who had simultaneously applied for

⁶³ '[V]oluntarily stateless means a person who has no citizenship in any State and who has remained stateless by his or her own or his or her parents' or guardians' will'.

⁶⁴ Unknown citizenship means that there is no information on citizenship or statelessness of the person in question (sect. 2 (1)(5)).

⁶⁵ Information provided by Kati Korsman, Senior Adviser, Nationality Unit of the Finnish Immigration Service, in a conversation on 15 May 2009.

⁶⁶ HE 235/2002: 31.

⁶⁷ KHO 2004:113.

⁶⁸ KHO 11.6.2007 T 1597.

asylum in another country with a different name (Pere 2008: 360–361).⁶⁹ Any information that an applicant has earlier provided to the authorities may be taken into account when his or her identity is being established (Section 6 (2)).

In addition to these principles based on the earlier practice under the 1968 Nationality Act, a new principle has been laid down in Subsection 3, according to which identity is considered to be established if an alien has for at least ten years used an identity registered in the population information system, even though he or she had earlier used more than one identity. The Supreme Administrative Court made an important decision in this regard in 2004: the identity of an applicant was considered to be established in accordance with the above-mentioned provision even though the applicant had changed her date of birth in the population information system during the previous ten years.⁷⁰ As a similar decision was made two years later⁷¹, it seems that the starting point of the ten-year period is not affected by the fact that some identity information entered into the population information system is later proclaimed false, if the new information cannot be shown to be illogical (Pere 2008: 361–362).

Acquisition of Finnish citizenship by application: conditions for naturalisation

The new Nationality Act also changed the requirements for discretionary naturalisation. Traditionally, Finland has been a country of emigration, not immigration.⁷² A rather limited number of foreigners have settled in Finland, and a comparatively small number of them have been naturalised. As a result, there has not been a need to discuss whether to reduce the overall numbers of naturalisations by introducing stricter conditions for immigrants to qualify for Finnish citizenship, and the threshold for acquiring Finnish citizenship by discretionary naturalisation has therefore been relatively low. However, between 1990 and 2002, while there was a moderate increase in the Finnish population, the foreign population almost quadrupled (Migri 2009b, Statistics Finland 2009b), as did the total number of citizenship applications.⁷³ With the adoption of the new Nationality Act in 2003, a change towards slightly more restrictive conditions for naturalisation — including stricter residence and language requirements — can be observed.

The general idea behind the naturalisation conditions of the new Act, especially the required period of residence and the language skills requirement, is that immigrants wishing to be naturalised must be able to take care of themselves in Finnish society and to accept the legal principles that are considered important in Finland. The government proposal for the Nationality Act emphasises knowledge of Finnish society and the Finnish or Swedish language: it is expressly stated that Finnish citizenship should be granted upon application only to persons whose (current) home country may undoubtedly be considered to be Finland.⁷⁴

⁶⁹ KHO 2004:114.

⁷⁰ KHO 2004:115.

⁷¹ KHO: 21.11.2006 T 3112.

⁷² While Sweden, for example, accepted great numbers of labour immigrants after the Second World War due to its rapidly expanding industrial sector, Finland was struggling with its economy and many Finns emigrated to Sweden in order to be able to support their families.

⁷³ The number of applications submitted was 602 in 1990 and 2,499 in 2002. It can be considered that these total numbers, even though they include the small numbers of applications for release from Finnish citizenship, illustrate the general trends regarding the number of naturalisation applications.

⁷⁴ HE 235/2002: 20.

Period of residence

The number of years of *continuous residence* required for naturalisation was increased in the new Act from five to six years (Section 13 (1)(2a)). In the preparatory work, comparisons were made with other States' requirements. A six-year period was chosen as a middle course, being neither among the longest nor among the shortest periods of residence required for naturalisation. At the same time an alternative residency requirement, an *accumulated period of residence*, was introduced, stipulating that residence in Finland for eight years after the age of fifteen, with the last two years uninterrupted equally qualifies for naturalisation (Section 13 (1)(2b)).

As under the 1968 Nationality Act, only the time that an alien has been 'permanently resident and domiciled in Finland' qualifies as period of residence: according to the definition in Section 7, 'permanent residence and domicile' means a person's 'actual and principal residence'. In the government proposal it was explained in this regard that an alien's permanent residence and domicile cannot be considered to be in Finland if he or she is residing in Finland with a *temporary* residence permit (or without any residence permit, if he or she needs a residence permit to live in Finland).⁷⁵ The Supreme Administrative Court took a different view in 2007 when it decided, against an earlier decision of the Administrative Court, that according to Section 15 (1)(2) of the Nationality Act, the starting point of period of residence was the day when a person had been given his or her first temporary residence permit.⁷⁶ As a result of the decision, the time that a person has been residing in Finland with a temporary residence permit is also included in the period of residence for the acquisition of citizenship, which may be regarded as an exceptional situation in international comparison (Pere 2008: 363–364).⁷⁷

Language skills requirement

The residence requirement is closely connected to the language skills requirement. It is presumed that the longer the period of residence in Finland is, the better the language skills will be. The preparatory work for the new Act underlines the

⁷⁵ HE 235/2002: 33. According to sect. 33 of the Aliens Act (301/2004, *ulkomaalaislaki*, entry into force 1 May 2004), residence permits are either fixed-term or permanent, and fixed-term residence permits are issued for a residence of temporary nature (temporary residence permit) or of continuous nature (continuous residence permit). In the Government proposal 235/2002 it was stated that if an alien's residence permit is not of a *permanent nature*, he or she does not have a permanent residence and domicile in Finland. A residence permit of permanent nature apparently means a permanent or continuous residence permit.

⁷⁶ KHO 2007:31. The interpretation of the Supreme Administrative Court can be regarded as correct taking into account the wording of the section, which had been changed during the parliamentary handling of the Bill. According to sect. 15 (1)(2), the period of residence starts 'on the date the first residence permit is granted if the applicant, when entering Finland, does not have a permit which gives him or her the right to move into the country'. The wording proposed by the Government had been 'on the date the first residence permit of *permanent nature* is granted', but the reference to permanent nature was removed by the Constitutional Law Committee of the Parliament, which considered that the concept of *residence permit of permanent nature* is not unambiguous in legislation. See HE 235/2002: 77; PeVM 8/2002: 4-5 (PeVM stands for *perustuslakivaliokunnan mietintö*, Report of the Constitutional Law Committee). 'Residence permit of permanent nature' is the author's translation from the Finnish term '*pysyväisluonteinen oleskelulupa*'.

⁷⁷ Information provided also by Kati Korsman, Senior Adviser, Nationality Unit of the Finnish Immigration Service, on 15 May 2009, and by Sonja Hämäläinen, Senior Adviser, Ministry of the Interior, in a telephone conversation on 29 May 2009.

importance of satisfactory knowledge of the Finnish or Swedish language for successful integration. Sufficient knowledge in one of these languages was considered important by the government in order to be able to act as a Finnish citizen within Finnish society.⁷⁸ Consequently, a requirement of satisfactory oral and written skills in Finnish or Swedish, or similar skills in Finnish sign language was also introduced in the new Nationality Act (Section 13 (1)(6)). The required level of proficiency corresponds to level B1 (Independent User) in the Common European Framework Reference for Languages (CEFR).⁷⁹

The 1968 Nationality Act had no rules on required language skills, but the 1985 Nationality Decree included a general requirement of sufficient knowledge of Finnish or Swedish. There were, however, no clear rules on how to prove language proficiency: a language certificate from a teacher was in practice considered as sufficient in order to prove skills in Finnish or Swedish, and civil servants at the Directorate of Immigration experienced that many immigrants who applied for and acquired Finnish citizenship had a very poor knowledge of the Finnish or Swedish language.⁸⁰

The major difference compared to the old Act is that the language skills requirement is now mentioned explicitly, and that the level of required language skills as well as the documentation accepted as proof of it are exhaustively outlined in Section 17 of the Act and Section 7 of the 2004 Nationality Decree.⁸¹ In general, an applicant able to provide documentation showing that he or she has passed a general language examination (National Certificate of Language Proficiency test) at level three (out of six levels, where six is excellent and three is satisfactory), or that he or she has completed basic education in Finnish or Swedish, will meet the language requirement. There are nevertheless so many other ways to demonstrate language proficiency (national language examination for civil servants, upper secondary school, university studies in Finland and abroad, examination of authorised translators, vocational examinations and studies in Sweden) that the actual situation has been considered too complicated in this regard.⁸²

It is clear that the fulfilment of the language skills requirement under the 2003 Nationality Act is more difficult than it was under the earlier legislation.⁸³ In August 2008, Astrid Thors, Minister of Migration and European Affairs, expressed her concern about suspicions that many applicants for citizenship had failed in the language proficiency test even though their knowledge of language was completely sufficient for everyday life in society. In the same occasion Johanna Suurpää, Ombudsman for Minorities, claimed that language tests are discriminatory against

⁷⁸ HE 235/2002: 41.

⁷⁹ Information provided by Tarja Leblay, counsellor of education at the Finnish National Board of Education, in an e-mail on 15 June 2009.

⁸⁰ HE 235:2002: 21. Information provided by Tiina Suominen, nationality division director at the Directorate of Immigration, in a telephone conversation on 15 September 2005.

⁸¹ In sect. 7 of the Nationality Decree, a further reference is made to sects. 15-17 of the Government Decree on the examination of proficiency in the Finnish and Swedish language within the State administration (481/2003 *Valtioneuvoston asetusten suomen ja ruotsin kielen taidon osoittamisesta valtioneuvoston asetuksen suomen ja ruotsin kielen taidon osoittamisesta*), and to Finnish and Swedish Language Examination Boards which can make recommendations to the Finnish Immigration Service.

⁸² Information provided by Kati Korsman, Senior Adviser, Nationality Unit of the Finnish Immigration Service.

⁸³ KK (written question) 58/2005, Processing of citizenship applications (*Kansalaisuusasioiden käsittely*), Sari Essayah/Christian Democrats (the answer of Minister of the Interior Kari Rajamäki).

women, since they may lead to situations where all members of the same family are naturalised except for the mother, for whom the fulfilment of language skills requirement is more difficult, because of e.g. lack of education or obligations related to childcare.⁸⁴ It can be assumed that these difficulties concern particularly refugee women, whose participation in social life and Finnish society is not encouraged by their ethnic groups, and who either cannot or will not participate in language courses.⁸⁵ Furthermore, unemployment among the refugee and immigrant population is high, consequently limiting full participation in Finnish society and therefore limiting opportunities to learn the language in everyday social intercourse.

Language skills requirement has also led to a particular administrative practice in the Finnish Immigration Service: since the beginning of 2009, language certificates attached to citizenship applications are checked right after the application has arrived, before the actual processing of the application. The intention behind this pre-inspection is to speed up the procedure and provide applicants an opportunity to acquire a certificate of language skills before the processing of the application begins: an applicant may e.g. be given a fixed period to participate in the National Certificate of Language Proficiency test, which is organised four times a year (Migri 2009c).

Exceptions to the period of residence and the language skills requirement

Conditions for individual exceptions to the requirements of residence and language skills are laid down in Section 18. According to Subsection 1, it is possible to deviate from these requirements if an alien has strong ties with Finland, has been permanently resident and domiciled in Finland for the past two years without interruption and there are special and weighty reasons for exception, e.g. a permanent full-time work in Finland in which it would be unreasonably difficult to be engaged without Finnish citizenship. In administrative practice it has been rare to grant an exception to both requirements, meaning that if an exception is made to the period of residence, the language skills requirement must be fulfilled, and vice versa. In general, language skills are not required at all from refugees (and persons who have a residence permit based on the need for protection) over 65 years of age. Other applicants who have passed the same age are not required to complete the National Certificate of Language Proficiency test.⁸⁶

According to Subsection 2, an exception to the language skills condition can also be made if an alien cannot meet the requirement 'because of his or her state of health, sensory handicap or a speech defect'. Civil servants of the Finnish Immigration Service have noticed that this exception to the language skills requirement is very often invoked in applications for citizenship. Nevertheless, the exception has been applied rather strictly in general.⁸⁷ In the government proposal it was considered in this regard that illness or other health-related problem must be so serious that it would be impossible to fulfil the language skills requirement, or that it

⁸⁴ 'Thors: Maahanmuuttajien kielikokeet saattavat olla liian tiukkoja' [Thors: Language tests for immigrants may be too difficult], *Helsingin Sanomat* [daily newspaper] and *Suomen tietotoimisto* [the Finnish News Agency], 16 August 2008.

⁸⁵ According to information provided by the Refugee Advice Centre in 2005, the language proficiency requirement had proved to be an obstacle at least for Kurds from Iran and Iraq.

⁸⁶ Information provided by Kati Korsman, Senior Adviser, Nationality Unit of the Finnish Immigration Service.

⁸⁷ Ibid.

would be unreasonable to demand its fulfilment.⁸⁸

The interpretation of Section 18 (2) can be illustrated by two decisions of the Supreme Administrative Court from March 2009. A 60 year old person who had dyslexia was exempted from the language skills requirement. He had presented the statement of a speech therapist proving the existence of dyslexia; in addition, he had actively tried to fulfil the language skills requirement and his oral skills had been evaluated as sufficient.⁸⁹ On the other hand, an exception was not granted for a person who had invoked learning difficulties caused by psychiatric problems. The existence of learning difficulties had been shown, but no account had been presented that treatment for the psychiatric problems had been attempted, or that there would have been an obstacle to treatment. As it was further taken into account that the person was only 39 years old, it was not considered unreasonable to demand the fulfilment of the language skills requirement.⁹⁰

In addition to these individual exceptions, there are also exceptions to the period of residence pertaining to groups which either need special protection (recognised refugees and involuntarily stateless persons, children) or are better qualified to live in Finnish society (former Finnish citizens and Nordic citizens, spouses of Finnish citizens): for these groups the period of required residence in Finland is at least two years shorter.

For recognised refugees, persons who have a residence permit based on secondary protection or humanitarian protection (before 1 June 2009, residence permit based on the need of protection), and involuntarily stateless persons, it is enough to have been permanently resident and domiciled in Finland for the last four years without interruption, or for a total of six years since the age of fifteen, with the last two years uninterrupted (Section 20). In addition, citizenship applications from these persons are processed expeditiously. The basis for the facilitated conditions and accelerated procedure is found in three international conventions, the Convention relating to the Status of Refugees⁹¹ (Article 34), the Convention relating to the Status of Stateless Persons (Article 32) and the European Convention on Nationality (Article 6 (4)(g)). It must be added that notwithstanding the recommendations of the first two conventions, the processing fee is not reduced for the persons mentioned in Section 20.⁹²

For a co-applicant child (filial extension of acquisition of citizenship) and a child as an applicant (filial transfer of acquisition of citizenship)⁹³, the required residence period depends on age: if the child has reached the age of fifteen years, the requirement is lowered to the last four years or a total of six years since the age of seven, with the last two years uninterrupted (Sections 23 (2) and 24 (3)). If the child is

⁸⁸ HE 235/2002: 46.

⁸⁹ KHO 2009:28.

⁹⁰ KHO 2009:29.

⁹¹ FTS 77/1968.

⁹² In the government proposal this was justified quite laconically: the economic position of persons mentioned in sect. 20 (refugees, those who have been granted a residence permit on the need of protection and involuntarily stateless persons) is 'not necessarily' worse than economic position of other applicants. HE 235/2002: 47–48.

⁹³ Co-applicant means a child in the custody of the applicant for whom the applicant wishes to acquire Finnish citizenship *on the same application* (or declaration) as for himself or herself (sect. 2 (1)(10)). A child can also be an applicant alone if his or her parent or guardian *who already is a Finnish citizen* wishes to acquire Finnish citizenship for the child (sect. 2 (1)(9)). The latter situation is however quite exceptional (HE 235/2002: 50).

under 15 years of age, he or she may be granted Finnish citizenship immediately when taking up residence in Finland, notwithstanding the normal requirements for residence and language skills (Sections 23 (1) and 24 (2)).

For the spouse of a Finnish citizen, the required period of residence is the last four years uninterrupted or a total of six years since the age of fifteen, with the last two years uninterrupted. In addition, the spouses must have lived together for a minimum of three years (Section 22). The definition of a spouse in Section 2 (1)(8) includes husband or wife, co-habiting partner of the opposite sex, and registered partner of the same sex, but, according to an interpretation of the Constitutional Law Committee of the Parliament, not partners of the same sex, where the partnership has not been registered.⁹⁴ The Finnish Immigration Service could nevertheless take into account even this kind of situation when applying Section 22.⁹⁵

Facilitated acquisition is also possible for former Finnish citizens and Nordic citizens: they are required to have been permanently resident and domiciled in Finland only for the last two years without interruption (Section 21).

Integrity requirement

One further condition for naturalisation is that the applicant has not committed any punishable act nor has had a restraining order issued against him or her (Section 13 (1)(3)). This *integrity requirement* includes a wide range of acts, even acts for which a court has waived punishment and acts committed before the age of fifteen, the age limit for criminal liability in Finland.⁹⁶ Exceptions to the integrity requirement are laid down in Section 19: according to Subsection 1, naturalisation is possible if it is considered on the basis of an overall consideration of the applicant's situation that there are well-founded reasons for an exception to the integrity requirement, taking account in particular the time passed after the crime, the severity of the punishment and the nature of the act. On the basis of the assessment, an applicant may be imposed with a *waiting period* during which he or she will not be naturalised without a well-founded reason. The maximum waiting period is seven years from the date of serving an unconditional sentence of imprisonment, and for other punishments three years from the date of the crime (Subsection 2).

The wording of the provisions concerning the integrity requirement and exceptions to it leave a wide margin of appreciation to the decision-maker. In the administrative practice of the Finnish Immigration Service, however, the requirement is applied in a quite uniform way: punishable acts are taken into account depending on the punishment that has been imposed. The Nationality Unit uses a special table to assist in its consideration.⁹⁷ According to the table, acts punished by penal fine or fine are taken into account if they have been committed during the last six years. The period is longer for acts that have resulted in other punishments.

The point of departure is that an applicant is normally not naturalised if he or

⁹⁴ PeVM 8/2002: 4.

⁹⁵ Information provided by Senior Adviser Kati Korsman, Nationality Unit of the Finnish Immigration Service..

⁹⁶ HE 235/2002: 40.

⁹⁷ Finnish Immigration Service: *Ohje* [guideline] 727/0033/2008, in force from 15 October 2008 to 15 October 2010. Information provided also by Senior Adviser Kati Korsman, Nationality Unit of the Finnish Immigration Service.

she has been sentenced three times to at least conditional imprisonment (suspended sentence), community service or juvenile service, two times to unconditional imprisonment or fifteen times to punishment of day fines. If the applicant has been sentenced to punishments which do not attain the mentioned limits, a waiting period is imposed: for example, if the punishment is between 30 and 59 day fines, the waiting period is one year from the date the crime was committed, if the punishment was between 60 and 99 day fines, the waiting period is two years and so on. If the punishment was conditional imprisonment, community service or juvenile service, the waiting period is three years and for unconditional punishment the period is from four to seven years.

A waiting period is normally imposed according to the table if it is not considered unreasonable. As the waiting period resulting from more lenient punishments than unconditional imprisonment is counted from the date of the crime, it can easily happen that the calculated waiting period has already expired when the decision is being made at the Finnish Immigration Service, and there is hence no obstacle for naturalisation.⁹⁸

Other conditions for naturalisation

In addition to the requirements of residence, language skills and integrity, there are also conditions from which no derogation is possible. The applicant must not have materially failed to provide maintenance or to meet his or her pecuniary obligations under public law (Section 13 (1)(4)). According to the government proposal, only a failure based on unwillingness, but not inability, to pay should be taken into account: naturalisation is possible if the reason for failure is acceptable, e.g. illness or unemployment or another condition which has damaged the applicant's economic situation. The applicant must also be able to provide a reliable account of his or her livelihood (Section 13(1)(5)). This requirement is closely connected to the integrity requirement, since its major aim is to ensure that the source of income is legal. Otherwise it does not impose any condition on the level of income: even a person living on income support may be naturalised.⁹⁹

As a general requirement for naturalisation, an alien applying for citizenship must be 18 years old or married before that (Section 13 (1)(1))¹⁰⁰ and his or her identity must have been reliably established according to Section 6, mentioned above.

According to Subsection 3 of Section 13, an alien will not be naturalised if there are well-founded reasons for suspecting that naturalisation will jeopardise the

⁹⁸ In this context it is not possible to provide a complete account of the contents of the table and how it is applied. To give one hypothetical example: the decision on naturalisation is made on 30 June 2009. The applicant has committed the following crimes: driving while intoxicated on 1 January 2003 (punishment 30 day fines), driving while intoxicated and causing a traffic hazard on 15 September 2005 (38 day fines) and causing a traffic hazard on 24 February 2008 (15 day fines). Since the first crime was committed over six years ago, it is not taken into account when the waiting period is calculated. For the punishment of 38 day fines, a waiting period of one year from the day the crime was committed is imposed. This waiting period ended on 15 September 2006. No waiting time is imposed for the last crime since the punishment was less than 30 day fines. As a result, the calculated waiting time of one year from 15 September 2005 ended on 15 September 2006 and no waiting time is thus imposed on the applicant when the decision is made.

⁹⁹ HE 235/2002: 40–41.

¹⁰⁰ This does not apply in the exceptional situation where a child is applicant (filial transfer of citizenship, sect. 24), but then the application must be made by a parent or guardian of the child.

security of the State or public order, or if the main purpose for acquiring citizenship is to take advantage of the benefits of citizenship without intention to settle in Finland, or 'if naturalisation conflicts with the best interests of the State for some other reason on the basis of an overall consideration of the applicant's situation'. It is noteworthy that this last condition was added to the Bill by the Constitutional Law Committee of the Parliament. The original wording proposed by the government for the first clause of Section 13 was that '[a]n alien *may be* granted Finnish citizenship on application if [...]', expressing the principle that naturalisation is a discretionary procedure (the so-called discretion of appropriateness by authorities) and an applicant has no entitlement to citizenship even if he or she meets all the conditions.¹⁰¹ The Constitutional Law Committee considered, nevertheless, that excessive discretionary power of authorities did not accord with Section 5 of the Constitution, according to which naturalisation is 'subject to the criteria determined by an Act': the decision-making about naturalisation must be completely based on legal provisions. The Committee therefore replaced the expression 'may be granted' by the wording '*is granted*' and at the same time added to Subsection 3 the above-mentioned general clause about 'the best interests of the State' as an additional basis for rejecting an application.¹⁰²

The stand taken by the Constitutional Law Committee means that there is a kind of 'right' to acquisition of citizenship by naturalisation, which is quite exceptional in the international context: in international law, the grant of citizenship has been regarded to include discretion of a political nature. On the other hand, it can not be considered that there would be the same kind of legal entitlement to acquisition of citizenship by naturalisation than there is in situations where declaration is possible (see below). The codification of the decision-making procedure just means that grounds of refusal are limited to those mentioned in Section 13 (3) if an applicant meets all the conditions laid down in Subsection 1. As a result, when Administrative Courts are applying Section 13 (3), they may also have to consider 'the best interests of the State', a task which does not fit easily with their jurisdiction (Pere 2008: 354–356).

Statistical developments on naturalisation

In recent years, the vast majority of decisions made on applications for naturalisation have been favourable. In 2008, a total of 4,250 applications for acquisition of citizenship, concerning 5,406 persons, were decided by Finnish Immigration Service. In 2007, the respective figures were 2,965 and 3,787.¹⁰³ The proportion of favourable decisions was 90.2 per cent in 2008 and 88.7 per cent in 2007, while the proportion of unfavourable decisions was 9.1 per cent in 2008 and 10.5 in 2007 (Migri 2009a: 5).¹⁰⁴

There are no general statistics available on the grounds for favourable and unfavourable decisions. The latter are usually based on the fact that the requirement of language skills or integrity is not fulfilled, while the application of refusal grounds of Section 13 (3) is very rare: less than ten decisions have been made in this regard yearly, and they are usually based on an unfavourable statement from the Security

¹⁰¹ HE 235/2002: 20, 38–39. Italicisation added by the author.

¹⁰² PeVM 8/2002 vp: 4. Italicisation added by the author.

¹⁰³ The reason for the growth of number of decisions by 43.3 per cent from 2007 to 2008 is explained by efforts to clear the congestion of applications.

¹⁰⁴ The remaining part is constituted by decisions on lapse or removal, 0.7 per cent in 2008 and 0.8 per cent in 2007 (Migri 2008e: 4, Migri 2009a: 5).

Police or on a consideration that the applicant has no aim to settle in Finland.¹⁰⁵

On the other hand, favourable decisions are quite often based on exceptions that can be made to the requirements of residence, language skills and integrity. For example, during January 2008, a total of 293 favourable decisions were made, of which 102 (35 per cent) were based on exceptions. Most exceptions, 86 decisions, were made to the integrity requirement (Migri 2008b).

In general, the number of citizenship matters handled by the Finnish Immigration Service and its predecessor Directorate of Immigration has increased rapidly since 1995. This is due in particular to the large immigration flows that reached Finland at the beginning of the 1990s, as explained above. These immigrants began to meet the requirements for naturalisation in 1995 and after.

Between 1996 and 1998, the total number of persons who acquired Finnish citizenship (by application and declaration) rose dramatically from less than 1,000 a year to more than 4,000 (Statistics Finland 2009a). This reflects the rise in the number of asylum seekers that were granted asylum or other types of residence permits at the beginning of the 1990s. At that time the residence requirement for discretionary naturalisation was five years, and the processing time was around three years.

It is remarkable that in 2004, the total number of applications dropped by 23.8 per cent compared to 2003, in the middle of which the new Nationality Act entered into force.¹⁰⁶ It can be assumed that the new, more strict requirements for period of residence and language skills had a discouraging effect for potential applicants. After 2004, nevertheless, the number of applications submitted to the Directorate of Immigration — and, after 2007, to the Finnish Immigration Service — has been steadily increasing (Migri 2008d: 4, UVI 2005: 25). In 2008, a total of 3,341 applications for naturalisation were submitted to the Finnish Immigration Service, compared to 3,076 applications in 2007 and 2,888 in 2006. As an application can also include a child in the custody of the applicant, the number of persons applying for citizenship is larger (Migri 2008e: 1, Migri 2009a: 1).

Where do the people who apply for Finnish citizenship come from? The number of applications submitted by citizens of the Russian Federation has for long been considerably bigger than the number of applications from other citizens: the number of Russian applicants was 1,832 in 2008 and 1,857 in 2007.¹⁰⁷ Russian applicants, on the other hand, have traditionally been to a great extent represented by Ingermanlanders.¹⁰⁸ This reflects an amendment made to the Aliens Act in 1993 facilitating the acquisition of residence permits for persons with a connection to Finland.¹⁰⁹ Other large applicant groups — citizens of Somalia, Afghanistan, Iraq, Serbia and Iran — represent rather quota refugee selections and groups that come to

¹⁰⁵ Information provided by Kati Korsman, Senior Adviser, Nationality Unit of the Finnish Immigration Service.

¹⁰⁶ The number of applications was 2,630 in 2003 and 2,004 in 2004. These total numbers, once again, include also the small numbers of applications for release from Finnish citizenship. The number of applications for release has been under 100 annually, so the total numbers may be considered to illustrate general trends regarding the number of applications for naturalisation.

¹⁰⁷ The second biggest applicant group in 2008 was Somalians (420 applicants) and in 2007 Serbians (301 applicants).

¹⁰⁸ Information provided by Refugee Advice Center in 2005.

¹⁰⁹ 639/1993 Act amending the Aliens Act (*laki ulkomaalaislain muuttamisesta*), entry into force 15 July 1993: sect. 18.

Finland due to family reunifications.¹¹⁰ It is remarkable that citizens of an EU Member State — Estonians — are among the 10 biggest nationality groups applying for Finnish citizenship (Migri 2009a: 2–3).¹¹¹

Acquisition of Finnish citizenship by declaration

Apart from naturalisation, Finnish law provides for acquisition of citizenship by declaration. This method of acquiring Finnish citizenship was written down in the 2000 Constitution (Section 5 (1)), although the declaration procedure had already been introduced in the Nationality Act of 1968. It can be summarised that acquisition of citizenship by declaration is based either on the Finnish citizenship of a parent or on long residence in Finnish society or in a Nordic society which can be considered similar to the Finnish one.¹¹²

As already mentioned, the declaration procedure is available to children born abroad and out of wedlock to a foreign mother and a Finnish father (Section 26 (1)(2)) and to adopted children who have reached the age of twelve years (Section 27). A new category of persons who can acquire Finnish citizenship by declaration after the entry into force of the new Nationality Act are persons born in Finland to foreign mothers and Finnish fathers, if paternity was established after they turned eighteen or got married before that (Section 26 (1)(1)).

Another group that may acquire Finnish citizenship by declaration are former Finnish citizens. In addition to the provisional possibility of declaration which was available to former Finnish citizens who had lost their citizenship due to the earlier prohibition of multiple citizenship (Section 60), there is also a general and permanent possibility of declaration to all former Finnish citizens in general. They are entitled to reacquire their Finnish citizenship by meeting a residency requirement of a total of ten years of permanent residence and domicile in Finland with the last two years uninterrupted if they are eighteen years of age and did not lose their Finnish citizenship due to fraud (Section 29 (1) and (3)). Nordic citizens can also acquire Finnish nationality upon declaration if they are eighteen years of age, have not acquired their other Nordic citizenship through naturalisation, and have lived the last six years in Finland (Section 30 (1)). Persons who have lost Finnish citizenship due to an insufficient connection with Finland and who never received information on the procedure for retaining citizenship can reacquire Finnish citizenship by declaration even if they live abroad (Section 29 (2)). As a kind of combination of the two groups mentioned above, persons who, after losing Finnish citizenship, have continuously been citizens of another Nordic country, are able to reacquire Finnish citizenship by declaration immediately upon taking up residence in Finland (Section 30 (2)).

Socialisation-based acquisition of citizenship is provided for in Section 28: a young person between eighteen and 22 years of age who has had his or her habitual residence in Finland for ten years with the last two years uninterrupted and who has not been sentenced to imprisonment can also acquire Finnish citizenship by declaration.¹¹³ For second-generation immigrants the requirement that the person must

¹¹⁰ In 2008, the respective number of applicants for these groups was 420 for Somalians, 278 for Afghans, 266 for Iraqis, 255 for Serbians and 251 for Iranians.

¹¹¹ The number of Estonian applicants was 203 in 2008 and 246 in 2007.

¹¹² HE 235/2002: 72.

¹¹³ If the applicant in question was born in Finland, the required period of residence is six years.

not have a prison sentence on his or her record if he or she wishes to acquire Finnish citizenship by declaration was introduced in the new Nationality Act. The reason for introducing this requirement was that it was considered more appropriate that a person who has been sentenced to imprisonment is evaluated in the application procedure, where there is a possibility for the authorities to refuse the granting of Finnish citizenship.¹¹⁴

The number of declarations submitted to the Finnish Immigration Service has been increasing considerably after the entry into force of the 2003 Nationality Act: before 2003, the annual number was almost always under 500, compared to over 2,000 since 2003. It is nevertheless noteworthy that between 2003 and 2008, the vast majority of declarations (e.g. 94.9 per cent in 2008 and 87.3 per cent in 2007) were submitted by former Finnish citizens and their descendants on the basis of the provisional five years' declaration procedure of Section 60. The fact that this transitional period ended on 31 May 2008 explains also the huge increase in the total number of declarations, from 2,975 in 2007 to 9,611 in 2008 (Migri 2008e: 3, Migri 2009a: 3). It can thus be assumed that the total number of declarations will decline considerably from 2009 onwards.

Of other groups entitled to citizenship, young second-generation immigrants (Section 28) are quantitatively the most important: the number of declarations submitted by them has been around 200 yearly (195 in 2008, 192 in 2007 and 219 in 2006). Also the number of declarations concerning children of Finnish fathers born out of wedlock (Sections 26 and 58) has been considerable, 157 in 2008, 95 in 2007 and 110 in 2006. The number of declarations submitted by native-born Nordic citizens has been remarkably lower (38 in 2008, 30 in 2007 and 30 in 2006) (Migri 2008e: 3, Migri 2009a: 3).

A total of 2,295 declarations for citizenship, concerning 2,360 persons, were decided by the Finnish Immigration Service in 2008. Due to congestion caused by over 9,000 declarations submitted according to Section 60 between January and May 2008, the amount of decisions on declarations fell by 1.8 per cent from 2007 (2,338 declarations concerning 2,425 persons). In 2008, 93.9 per cent of decisions were favourable and 2.4 per cent unfavourable. In 2007, the respective proportions were 94.7 per cent and 2 per cent. The great majority of decisions concerned former Finnish citizens and their descendants (Migri 2008e: 4, Migri 2009a: 5).¹¹⁵

Modes of loss of Finnish citizenship

While a Finnish citizen no longer automatically loses his or her Finnish citizenship when acquiring another citizenship, the new Nationality Act introduced some other new modes for the loss of Finnish citizenship.

One new feature in this regard is the procedure of withdrawal laid down in Section 33. A person who has been granted Finnish citizenship upon application or

Residence in other Nordic countries is equivalent to residence in Finland for the five years before the declaration was made and to the extent that the period of residence occurred before the age of sixteen (sect. 28 (2)).

¹¹⁴ HE 235/2002: 53.

¹¹⁵ The number of such decisions was 1,732 in 2008 and 1,879 in 2007. It is not clear whether these figures include also negative decisions.

declaration may lose his or her Finnish citizenship if he or she has provided false or misleading information to the authorities and such conduct was decisive to the acquisition (Section 33 (1)). A child of a person who loses Finnish citizenship because of fraud may also lose his or her Finnish citizenship transferred or extended by that parent, unless the other parent is a Finnish citizen (Section 33 (2)). Finnish citizenship will not be lost as a consequence of false or misleading information if more than five years have passed since the citizenship was acquired (Section 33 (4)). During the first six years in force of the 2003 Nationality Act, there has not been a single case where Section 33 has been applied.¹¹⁶

Furthermore, a person may lose his or her Finnish citizenship according to Section 32 if citizenship has been granted on the basis of the father's citizenship and paternity is later annulled.¹¹⁷ As mentioned above, a foundling or a child with unclear citizenship who has acquired Finnish citizenship at birth will lose Finnish citizenship if he or she is established as a foreign citizen; but since an age limit has been included in the Act, Finnish citizenship is retained if the foreign citizenship is established only after the child reaches the age of five (Section 12).

As with the old Nationality Act after its amendment in 1984, the 2003 Nationality Act provides for the automatic loss of Finnish citizenship at the age of 22 for persons who also have a citizenship of another State (Section 34). They retain their Finnish citizenship only if they have a sufficient connection with Finland. A sufficient connection is deemed to exist e.g. if the person's municipality of residence (home municipality) has been in Finland or his or her permanent residence and domicile has been in another Nordic country for at least seven years.¹¹⁸ Even if these conditions are not fulfilled, retention of citizenship has been made rather easy: the required connection is equally deemed to exist if the person has, between eighteen and 22 years of age, given a written notice to a Finnish diplomatic mission of his or her wish to retain citizenship, been issued a Finnish passport or completed military or civil service in Finland (Section 34 (2)(3)). In administrative practice, even applying for a Finnish passport from a Finnish diplomatic mission before the age of 22 has been considered a sufficient expression of intent to retain citizenship if the passport has not been issued before the age limit.¹¹⁹

According to Section 37, the Finnish Immigration Service is responsible for giving instructions on how to retain citizenship at the age of 22. A letter is sent each year in December to all Finnish citizens who will reach the age of eighteen next year and who have not had a municipality of residence in Finland for seven years. If information is nevertheless not received and Finnish citizenship is lost as a result, citizenship can be reacquired by declaration according to Section 29 (2).¹²⁰

¹¹⁶ Information provided by Kati Korsman, Senior Adviser, Nationality Unit of the Finnish Immigration Service.

¹¹⁷ Loss of citizenship on the basis of annulment of paternity is not automatic: a decision is based 'on an overall consideration of the child's situation'. In the assessment, particular account must be taken of the child's age and ties with Finland (sect. 32).

¹¹⁸ A sufficient connection is also deemed to exist if the person was born in Finland and his or her municipality of residence is in Finland when he or she reaches the age of 22 years (sect. 34 (2)(1)).

¹¹⁹ Information provided by Kati Korsman, Senior Adviser, Nationality Unit of the Finnish Immigration Service.

¹²⁰ Even though it is required in sect. 29 (2) that the person submitting a declaration has not received information on the procedure for retaining citizenship, no proof of this 'ignorance' has been required in the administrative practice of the Finnish Immigration Service (information provided by Kati Korsman, Senior Adviser, Nationality Unit of the Finnish Immigration Service).

A Finnish citizen may be released from Finnish citizenship upon application, if he or she is a foreign citizen or is about to acquire the citizenship of another State (Section 35). A new condition mentioned in the Act is that release is not possible if the applicant is domiciled in Finland and the reason for applying for release is to avoid military service or other obligations of citizenship. As already mentioned, loss of Finnish citizenship is never possible if it leads to statelessness. However, if acquisition of a foreign citizenship is conditioned upon the loss of a previous citizenship, a person may be released from his or her Finnish citizenship even if that means that he or she will be stateless for a short period of time (Section 35 (2)).

In the government proposal it was anticipated that the number of applications for release from Finnish citizenship would increase due to the acceptance of multiple citizenship.¹²¹ However, the annual number of these applications is still very small and a considerable proportion of them are submitted by Finnish citizens living in Norway or Denmark (19 out of 39 in 2008 and 21 out of 24 in 2007). Norwegian or Danish citizenship cannot be acquired before the person has been released from his or her old citizenship. Other large applicant groups are Finnish citizens living in Austria and Japan, where multiple citizenship is not accepted either.¹²² The number of decisions made on applications for release was 65 (concerning 67 persons) in 2008 and 24 (28) in 2007 (Migri 2008e: 1, 4; Migri 2009a: 1, 5).

3.2 The Province of Åland and ‘the right of domicile’

The special status of the Åland Islands dates back to the first years of independent Finland. When Sweden was forced to relinquish Finland to Russia in 1809, this group of islands inhabited by Swedish-speaking people was ‘part of the package’. When Finland declared itself independent in 1917, Åland wished to be reunified with Sweden. The province consequently became the subject of a territorial dispute between Finland and Sweden. The newly formed League of Nations provided a solution in 1921, giving something to each of the three parties involved in the conflict: Finland was granted sovereignty over Åland, the inhabitants of Åland were guaranteed their Swedish culture, language, local customs and system of self-government, and Sweden was assured that Åland would never become a military threat as the islands would remain demilitarised and were in addition declared neutral (The Åland Government 2009). However, despite (or because of) this imposition of Finnish citizenship on Ålanders over 90 years ago, even today they feel a closer affiliation to the Swedes.¹²³

Under Section 120 of the Finnish Constitution, the Province of Åland constitutes an autonomous part of Finland. The Autonomy Act for Åland¹²⁴ includes provisions on ‘the right of domicile’ in Åland, with amendments. The right of

¹²¹ HE 235/2002: 58.

¹²² Information provided by Kati Korsman, Senior Adviser, Nationality Unit of the Finnish Immigration Service.

¹²³ As an example it can be mentioned that almost 80 per cent of Ålandish young people who study outside the Islands choose to be educated in Sweden (Lindholm 2009). It is equally noteworthy that a proposal according to which Åland should change its time zone in order to match Sweden received considerable support in the Parliament of Åland in spring 2008. K. Österman, ‘*Stort stöd i lagtinget för svensk tid på Åland*’ [Broad support in the Parliament for the Swedish time in Åland], *Ålandstidningen* [daily newspaper] 18 August 2008, www.alandstidningen.ax/article.con?iPage=1&id=8874.

¹²⁴ 1144/1991 *Ahvenanmaan itsehallintolaki (självstyrelselag för Åland)*, entry into force 1 January 1993.

domicile can be described as a regional citizenship, which is required in order to own or be in possession of real estate, vote in and stand for elections to the provincial parliament, and conduct a business within the province of Åland.¹²⁵ The Provincial Government may grant exemptions from the requirement of right of domicile for persons wishing to acquire real estate or conduct a business in Åland. Acquisition of the right of domicile is regulated in the Autonomy Act adopted by the Finnish Parliament, while loss of the right of domicile may be regulated in Acts adopted by the Provincial Parliament of Åland.

The right of domicile follows the principle of *ius sanguinis* and is acquired at birth if either of the parents is in possession of the right of domicile (Autonomy Act, Section 6). Others can also acquire the right of domicile if certain requirements are met. According to Section 7 of the Autonomy Act, a person wishing to acquire the right of domicile in Åland must be a Finnish citizen, have had his or her habitual residence in Åland for the last five years without interruption, and have adequate knowledge of the Swedish language.¹²⁶ A person who has lived outside Åland for more than five years loses the right of domicile.¹²⁷ Loss of Finnish citizenship also leads to the loss of the right of domicile in the Province of Åland (Section 7).

In spring 2009, a committee consisting of members of the Parliament of Åland passed a report on the review of the right of domicile. The committee unanimously considered that Finnish citizenship should no longer be a prerequisite for the right of domicile in Åland, and recommended that the provincial government together with the Government of Finland formulate an amendment in this regard. Whether this motion proves successful or not, it is noteworthy that the same question has been on the local political agenda for at least 30 years.¹²⁸

3.3 Institutional arrangements

The procedure of acquisition of citizenship

The processing of citizenship applications and declarations is carried out within the Finnish Immigration Service, an administrative agency that processes and decides on matters related to immigration, residence, refugee issues, and Finnish citizenship. The Service is subordinate to the Ministry of the Interior. Between 1995 and 2007, the name of the agency was the Directorate of Immigration, which took over the role of the Ministry of the Interior as the new immigration agency on 1 March 1995. As mentioned in the history Section, decision-making authority in citizenship matters was transferred from the President to the Directorate on 15 August 1998.

An application for Finnish citizenship can only be submitted in Finland and it shall be submitted in person to the district police where the applicant is residing. An application for release from citizenship, as well as citizenship declarations for which

¹²⁵ For a more extensive examination on the right of domicile, see e.g. 'The right of Domicile on Åland', a compilation of seminar presentations, published by the Åland Islands Peace Institute (www.peace.ax) in 2007 (English translation 2009).

¹²⁶ Swedish is the official language in the Province of Åland (sect. 36 of the Autonomy Act).

¹²⁷ Provincial Act (1993:2) on the Right of Domicile in Åland, *Landskapslag om åländsk hembygdsrätt*, sect. 4.

¹²⁸ M. Andersson, 'Hembygdsrätten bör inte vara knuten till finskt medborgarskap' [The right of domicile must not be bound to Finnish citizenship], *Ålandstidningen* [daily newspaper] 9 April 2009, www.tidningen.aland.net/article.con?iPage=392&id=16101.

residence in Finland is not required¹²⁹ can also be submitted to a Finnish diplomatic mission, consulate, or honorary consulate abroad. Children (co-applicants and children as applicants) are also required to be present when the application of declaration is submitted (Section 44 (1)). The identity of the applicant is then checked by the police or the diplomatic mission. This goes also for a child who has a travel document or an identity card of his or her own (Section 44 (2)).¹³⁰ Declarations made according to transitional provisions (Sections 58–60) until 31 May 2008 could also be sent by post with the attachment of a receipt showing that the handling fee had been paid (Section 61). This possibility was added to the Bill by the Constitutional Law Committee, which considered that the requirement of personal appearance could become an obstacle to submitting a declaration for those Finnish expatriates who live in large countries (e.g. the United States of America, Canada and Australia) or in countries where Finland does not have diplomatic missions, and who would therefore need to travel a long way to reach a Finnish diplomatic mission.¹³¹

Applications and declarations shall be made on specific application forms. Such forms are available at the Finnish Immigration Service, the District Police and at Finnish diplomatic missions abroad, as well as on the website of the Finnish Immigration Service. Documents shall be attached in accordance with the instructions on the specific form, typically proof of established paternity, copy of passport or identity card and birth certificate. Applicants from countries suffering or recovering from war often have difficulties providing documents regarding their identity. This concerns citizens from Somalia, Iraq and Afghanistan in particular. As already mentioned, the identity of a person who has used one and the same identity in the population information system for at least ten years is considered to be established in accordance with the Nationality Act.

There is a fee for both citizenship applications and declarations that must be paid in order for the application or declaration process to continue after the check on identity. The fee is regulated annually by a decree issued by the Ministry of the Interior. In 2009, the fee is €400 for all citizenship applications, including applications for release from Finnish citizenship, and €240 for citizenship declarations. For children under 18 years of age, the declaration fee is €100. Children who are included in the application of their parents (co-applicants) are exempted from the application and declaration fee. No fee is charged either for two groups of elderly applicants, i.e. persons who can prove that they served in the Finnish army during the Finnish wars of 1939–1945, or were sent as war children to another Nordic country during the same period.¹³²

The quantification of fees is closely related to the problem with the long processing times, as outlined below. The intention expressed in the government

¹²⁹ This covers children of Finnish fathers (sect. 26), adoptive children who have reached the age of twelve (sect. 27) and former Finnish citizens who have lost their citizenship due to an insufficient connection with Finland (sect. 29 (2)), as well as persons who were entitled to citizenship during the five-year transitional period (sects. 58–60).

¹³⁰ Since 1 June 2007, it has been possible to file an application electronically (sect. 44 (5)), in accordance with provisions of the Act on Electronic Services and Communication in the Public sector (*laki sähköisestä asiointista viranomaistoiminnassa*, 13/2003). In these cases identity will subsequently be checked according to sect. 44 (2).

¹³¹ PeVM 8/2002: 2–3.

¹³² 942/2008 Ministry of the Interior Decree on the fees for the performances of the Finnish Immigration Service (*sisäasiainministeriön asetus Maahanmuuttoviraston suoritteiden maksullisuudesta*), entry into force 1 January 2009.

proposal for the new Nationality Act was that the fee should cover the real costs of processing an application or a declaration.¹³³ Even though the fees were finally kept lower than the actual procedural costs, they were nevertheless raised in 2003 to reflect the anticipated increase in the workload. The application fee was raised from €336 to its current level and the declaration fee first from €84 to €100 and then, as the new Nationality Act entered into force, raised considerably from €100 to €300.¹³⁴ This apparently had an unintended effect, as the number of declarations submitted by former Finnish citizens and their descendants was much lower than expected during the first year in force of the new Nationality Act.¹³⁵ It can be assumed that the fee of €400 is a hurdle for some applicants who are dependent on social security benefits, especially since the total costs of an application process are often higher: participation in a National Certificate of Language Proficiency test costs €77 and if the application includes documents issued by a foreign authority, the applicant is in principle liable for translation of these documents to Finnish or Swedish at his or her own expense (Section 47 (2)).¹³⁶ The level of costs can be a problem especially for refugees, since the unemployment rate among them has traditionally been significantly higher than among other immigrants. The social authorities may in some situations give additional financial assistance for the application fee, but the general policy e.g. in the capital is that no assistance is given. It is not known how many people have given up on applying for citizenship because of the procedural costs. In recent years, there has not been a single case where an applicant has been exempted from the application fee.¹³⁷

At the end of 2003, five Members of Parliament from the Swedish People's Party expressed concerns that the high fees constituted a barrier for many immigrants and former Finnish citizens wishing to (re)acquire Finnish citizenship. In particular, it was viewed as unfair that persons who had lost Finnish citizenship due to the previous non-acceptance of multiple citizenship should pay such a high fee in order to reacquire Finnish citizenship.¹³⁸ The declaration fee was lowered to its current level of €240 in 2005.¹³⁹ As was explained above, the last-minute rush of transitional period declarations in 2008 indicates that even the current declaration fee was considered too high by many former Finnish citizens.

The application or declaration will be processed by the Nationality Unit of the Finnish Immigration Service. The period within which an application or declaration has to be processed has not been legally regulated, leaving it rather unclear for an applicant as to when to expect an answer. Since the beginning of 2009, the Finnish

¹³³ HE 235/2002: 26.

¹³⁴ Ministry of the Interior Decrees 1417/2001 (in force from 1 January 2002 to 31 December 2002), 1123/2002 (in force from 1 January 2003 to 31 December 2003) and 388/2003 (in force from 1 June 2003 to 31 December 2003).

¹³⁵ The number expected was 5,000 declarations yearly. During the first year that the 2003 Nationality Act was in force, i.e. from 1 June 2003 until 31 May 2004, the number of declarations made by former Finnish citizens and their descendants was 3,011 (UVI 2004).

¹³⁶ HE 235/2002: 65. Documents in English are accepted without translation (information provided by Senior Adviser Kati Korsman, Nationality Unit of the Finnish Immigration Service).

¹³⁷ 'Suomen kansalaisuus tulee kalliiksi maahanmuuttajalle' [Acquisition of Finnish citizenship is expensive for an immigrant], *Iltaalehti* [a daily afternoon paper] and *Suomen tietotoimisto* [the Finnish News Agency], 21 June 2009, www.iltalehti.fi/uutiset/200906219803432_uu.shtml.

¹³⁸ Parliamentary motion (*toimenpidealoite*, TPA) 89/2002, Fees for granting citizenship (*Kansalaisuuden myöntämistä koskevat maksut*), Eva Biaudet and others, The Swedish People's Party.

¹³⁹ 1344/2004 Ministry of the Interior Decree on the fees for the performances of the Directorate of Immigration (*sisäasiainministeriön asetus Ulkomaalaisviraston maksullisista suoritteista*), in force from 1 January 2005 to 31 December 2005.

Immigration Service has published on its website monthly overviews of the queue of citizenship applications, with general information about processing situation of applications (e.g. that processing has started for applications that arrived in June 2008 and applications arrived earlier are being processed or have already been decided).

After making a decision the Service notifies the applicant in writing of the result of the application or declaration procedure. If the decision is unfavourable to the applicant, it must be justified (Section 50). As mentioned above, decisions made by the Finnish Immigration Service can be appealed to an Administrative Court, and decisions made by the Administrative Courts can be further appealed to the Supreme Administrative Court (Sections 41–42).

The Directorate of Immigration, the Ministry for Foreign Affairs and Finnish diplomatic missions abroad provide information about the possibilities and procedures for acquisition and renunciation of Finnish citizenship. All these authorities played a role in distributing information about the new principle since the acceptance of multiple citizenship in the Nationality Act of 2003. While the goal was to inform Finnish expatriates about the possibility of retaining or reclaiming Finnish citizenship, the information about the new Act did not take the form of a recruitment campaign.

There has been a constant effort to speed up the procedure of citizenship applications and declarations in the Directorate of Immigration and later in the Finnish Immigration Service. The increase in the number of citizenship applications in the middle of 1990s was not matched by corresponding increase in resources and personnel, which led to unacceptably long processing times, at an average of three years for citizenship applications.¹⁴⁰ The long procedure was the subject of repeated criticism by the public, Members of Parliament and the Parliamentary Ombudsman.¹⁴¹

In 2001, the Directorate of Immigration started a project which later became an established practice, according to which the principle ‘first in—first out’ was partly abandoned and new applications that were considered clearly founded were processed immediately. Old applications were grouped in order to process similar cases simultaneously. Another project, launched in 2004, also aimed to shorten processing time: a goal was to cut down the average processing time to one and a half years for citizenship applications and two months for citizenship declarations (Ministry of the Interior 2005).¹⁴² This project has proved successful: while the average processing time for citizenship applications in 2003 was over three years, the goal of one and a half years was almost achieved by 2005 (18.4 months) and again in 2008 (18.5 months) (UVI 2005: 27, Migri 2008d: 3).¹⁴³ It is noteworthy that in 2008, the

¹⁴⁰ It was expected that the transfer of the decision-making power from the President of the Republic to the Directorate of Immigration in 1998 would lead to a reduction in processing time of 30 per cent. However, the increase in the number of applications for asylum, residence permits and work permits led to a reallocation of resources within the Directorate from citizenship matters to immigration matters, which prevented the anticipated reduction from being realised. HE 49/1998; KK 1265/2001, Processing times for applications within the Directorate of Immigration (*Ulkomaalaisviraston hakemusten käsittelyajat*), Erkki Kanerva and others/Social Democratic Party.

¹⁴¹ KK (Written question) 1265/2001; the Decision of the Deputy Ombudsman Ilkka Rautio on processing times of asylum and citizenship applications within the Directorate of Immigration (*päätös ulkomaalaisviraston turvapaikka- ja kansalaisuushakemusten käsittelyajoista*), 16 December 2003, 362/2/03.

¹⁴² KK 258/2004, Processing time for citizenship applications (*Kansalaisuushakemusten käsittelyajat*), Anne Holmlund/The National Coalition Party (the answer of the Minister of the Interior Kari Rajamäki).

¹⁴³ In regard to this average processing time of 18.5 months, it must be added that 80 per cent of

Nationality Unit made a total of 4,290 decisions on citizenship applications, 43.6 per cent more than the year before. As a result, all applications submitted before 2006 were decided during 2008 (Migri 2008c: 7).

With citizenship declarations, on the other hand, the processing times have been growing during recent years. While the goal of two months had been achieved in 2005 and 2006, the processing time stretched to 2.5 months in 2007 and, remarkably, 6.2 months in 2008 (UVI 2005: 27, Migri 2008d: 3). The delay has been caused by the aforementioned last-minute rush of citizenship declarations by former Finnish citizens and their descendants. The goal is that all of these ‘transitional declarations’ will be resolved during 2009.¹⁴⁴ This prioritisation may also increase the average processing time for citizenship applications (Migri 2009a: 7).

The legislative process

Enacting legislation is one of the main tasks of the Finnish Parliament. Both the government and Members of Parliament can submit bills to the Parliament. The government, through the Ministry of the Interior, plays a vital role in immigration matters in Finland. Revising nationality legislation is one of the Ministry’s tasks. The new Nationality Act was consequently drafted by the Ministry of the Interior, with the assistance of the Directorate of Immigration.¹⁴⁵

Fifty different agencies, organisations, and interest groups were asked to state their views on the government proposal for the new Nationality Act. Among these were the Finnish Expatriate Parliament, the Finland Society, the Refugee Advice Centre, relevant ministries, and the administrative courts. A specific statement on multiple citizenship and its impact on the various branches of the administration was asked for and given by seventeen different agencies, including the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Defence and the Ministry of Labour.¹⁴⁶

The handling of a government proposal or a Member of Parliament’s initiative starts with a preliminary debate in plenary session.¹⁴⁷ No decisions are made at this stage of the legislative procedure as the purpose of the debate is merely to provide a basis for the subsequent committee work. The Members of Parliament are given an opportunity to present their views on the bill as a guide to the committee work. At the end of the debate Parliament decides which committee the further preparation of the bill shall be referred to.

During the committee’s handling of the bill, which is the next stage in the

applications were decided faster: e.g. for those applicants who had a national passport, the average processing time was less than a year (11.9 months). For the applications which required special investigation, on the other hand, the average time was 27.3 months (Migri 2009a: 6–7). Processing times longer than average are normally due to problems with the requirement of established identity (information provided by Senior Adviser Kati Korsman, Nationality Unit of the Finnish Immigration Service).

¹⁴⁴ At the beginning of June 2009, there were fewer than 3,700 unresolved citizenship declarations which had been submitted by former Finnish citizens and their descendants (Migri 2009d).

¹⁴⁵ HE 235/2002: 26.

¹⁴⁶ HE 235/2002: 26–27.

¹⁴⁷ Information provided in this Section is generally based on the internet page ‘Legislative Work of Parliament’, published by the Parliament of Finland (<http://web.eduskunta.fi/Resource.php/parliament/aboutparliament/legislativework.htx>).

legislative procedure, there may be hearings of experts, such as officials, representatives of government agencies, organisations and other interest groups who will present their views on the legislative proposal. The bill is subject to a general debate within the committee where it will be analysed section by section. The committee will present a report with its views and recommendations as to what decision Parliament should take on the bill. The handling of a bill in a committee normally takes a month or two.

The Nationality Act of 2003 was handled in the Committee for Constitutional Law.¹⁴⁸ This Committee handles all matters concerning constitutional law, but also other related matters such as citizenship, language, political parties, and ministerial responsibilities.

Following the Committee's handling, the bill goes through two readings in plenary session of Parliament. In the first hearing the bill will be decided upon section by section. Voting will be conducted if necessary. At least two days have to pass before the second reading of the bill can take place. At the second reading, the bill can no longer be amended and will be either passed or rejected. If a bill is amended during the first hearing it must be referred to the Grand Committee for scrutiny before it can be voted on in the second hearing. Normally a bill is read within two to four months, however, major legislative projects may require considerably more time.

A simple majority of votes is required for passing or rejecting ordinary legislative bills. Amendments of constitutional provisions must first be passed by a simple majority of votes in the second parliamentary reading. The bill will thereafter be left in abeyance until a new Parliament has been elected. The new Parliament must pass the bill by a two-thirds majority in order for it to become law. If declared urgent by a five-sixths majority of the Parliament, amendment of constitutional provisions may be passed by the same Parliament by a two-thirds majority.

A bill passed by Parliament must be sent to the President of the Republic for approval. If the President does not approve a bill within three months, the bill will be returned to Parliament and handled again. If after this handling Parliament repasses the bill without material alterations, it will enter into force as an Act without approval of the President.

In Finland, legislative acts by Parliament are not subject to judicial review by a constitutional court. Nor does the Supreme Court have an explicit right to declare an act unconstitutional. Instead, the Committee for Constitutional Law has the authority to review the constitutionality of bills and recommend changes. Recommendations of the Committee are not judicially binding, but in practice they are unconditionally followed (Ojanen 2001: 80–81). Consequently, the Constitutional Law Committee may be regarded as fulfilling the task of a constitutional court.

4 Current reform plans

As a result of the March 2007 Parliamentary elections, a new centre-right coalition government (the so-called second Cabinet of Prime Minister Matti Vanhanen) was formed, including the Centre Party, the National Coalition Party, the Green League and the Swedish People's Party. In the Government Programme, under the title 'Migration', there were a couple of points relevant to citizenship issues. First, it was

¹⁴⁸ PeVM 8/2002.

decided that the name of the Directorate of Immigration would be changed to the Finnish Immigration Service (Government Programme 2007: 20). This reform took place on 1 January 2008 when the references to the agency in the Nationality Act and the Nationality Decree were accordingly amended.¹⁴⁹

As a kind of a general principle in immigration matters, it was further proclaimed in the Government Programme that work-related immigration would be promoted, taking into account the demographic trends and the resulting need for labour in Finland and the EU. There was consequently one clause directly related to citizenship issues and the contents of the Nationality Act: 'The period of residence required for Finnish citizenship will be shortened and the naturalisation of foreign students settling in Finland facilitated' (Government Programme 2007: 20–21).

On 15 October 2008, the Ministry of the Interior¹⁵⁰ decided to start a project to amend the Nationality Act in compliance with the plans of the Government Programme, and to investigate the need for other central modifications to the Act. A government proposal for the amendments was expected to be submitted to the Parliament in autumn 2009. The general aim of the project is to improve the feeling of social integration of foreigners residing in Finland by making naturalisation possible in a more flexible way.¹⁵¹ Citizenship issues will be linked to the general immigration policy and naturalisation will be used as a means to promote integration into society. One intention in this regard is to organise more citizenship ceremonies and provide similar positive experiences.¹⁵²

In accordance with the aim expressly stated in the Government Programme, the original intention of the project was that the period of residence required for citizenship would be shortened, e.g. from six years to five. At the end of May 2009 it seemed, nonetheless, that this goal would be partly abandoned: the actual period of residence would be kept but the provisions relating to the starting point of the period of residence (Section 15) would be amended instead. This is essentially due to the ruling of the Supreme Administrative Court in May 2007, according to which the time that a person has been residing in Finland with a temporary residence permit is fully included in the period of residence.¹⁵³ The intention of the Ministry is to bring a change to this situation which is quite exceptional on the international scale. According to the prevailing plan at the end of May 2009, it would be expressly mentioned in the Act that *half* of the period of residence with a temporary residence permit would be included in the total period of residence. This condition would be considerably stricter than the current situation based on the ruling of the Supreme Administrative Court, but more lenient than the original intention behind the 2003 Nationality Act, that only the time of residence with a permanent or continuous residence permit would count towards the total period of residence. In addition, the anticipated reduction would concern all applicants, not just foreign students settling in

¹⁴⁹ See Section 2.9 above.

¹⁵⁰ Since the forming of the second cabinet of Prime Minister Matti Vanhanen, the Ministry of the Interior has been headed by two ministers, the Minister of the Interior Anne Holmlund (the National Coalition Party) and the Minister of Migration and European Affairs Astrid Thors (the Swedish People's Party).

¹⁵¹ Decision of the Migration Department of the Ministry of the Interior (*Sisäasiainministeriön Maahanmuutto-osaston asettamispäätös*) SM129:00/2008, 15 October 2008.

¹⁵² The information about reform plans given in this section is based, unless mentioned otherwise, on a telephone conversation with Sonja Hämäläinen, Senior Adviser in the Ministry of the Interior and the person in charge of the Ministry's project, on 29 May 2009.

¹⁵³ KHO 2007:31 (see Section 3.1, 'Period of residence', above).

Finland, the group expressly mentioned in the Government Programme.

The language skills requirement and especially exceptions to it have also been a subject of discussion. As mentioned above, concerns have been expressed about the excessive strictness of the current requirement, e.g. by the Minister of Migration and European Affairs and the Ombudsman for Minorities in August 2008. During the project, there have been suggestions that the language skills requirement could be opened up completely: it could be used as an incentive by making the period of residence shorter for those who have the required language proficiency, and it could be eased for the so-called vulnerable groups like the elderly and the illiterate.¹⁵⁴ The prevailing plan at the end of May 2009 was that the level of ‘satisfactory skills’ currently required would be retained, but the number of ways to demonstrate language proficiency would be reduced, since the actual situation with numerous different kinds of certificates and examinations has been considered too complicated.¹⁵⁵

As regards the idea that language skills requirements should be made easier for some vulnerable groups, it is possible that the Ministry will propose to introduce some general clause into the Nationality Act enabling an exception to the requirement if e.g. learning of the language is *de facto* impossible. The Ministry is nevertheless reluctant to refer to any particular group in the Act in this regard: it has been feared that if e.g. mothers of refugee families, who notoriously have difficulties with language skills, were expressly mentioned in the Act as a group for which exception is possible, this might legitimise the situation where mothers are staying at home and families are represented by men. The principle is that all foreigners regardless of sex and social status, have a right to language education and integration into society.

Even though the information campaign on the provisional possibility to reacquire Finnish citizenship by declaration was quite extensive, it did not reach all former Finnish citizens and their descendants.¹⁵⁶ Ever since the transitional period ended on 1 June 2008, the Finnish Expatriate Parliament has been lobbying for the restitution of the declaration procedure for former Finnish citizens living abroad (FEP 2009a–b). It is indeed possible that this declaration procedure will be made permanent and at the same time other provisions relating to former Finnish citizens will be amended, in order to treat all former citizens in a more uniform way. Descendants of former Finnish citizens are a potential problem in this regard, since a permanent declaration opportunity for expatriates may lead to a situation where Finnish citizenship is passed from a generation to another without any real connection to Finland. It is thus possible that the retention of Finnish citizenship at the age of 22, which concerns multiple citizens and is currently very easy according to Section 34, will be made more difficult as a counterbalance to the anticipated declaration procedure.

¹⁵⁴ M. Liiten, ‘*Ahkera suomen opettelu saattaa nopeuttaa kansalaisuuden saantia*’ [Eager studying of Finnish language may expedite the acquisition of citizenship], *Helsingin Sanomat* [daily newspaper], 24 January 2009, www.hs.fi/kotimaa/artikkeli/Ahkera+suomen+opettelu+saattaa+nopeuttaa+kansalaisuuden+saantia/1135243011217.

¹⁵⁵ In this regard it is noteworthy that the Ministry of Education and the Finnish National Board of Education are preparing a reform to the general language examination (National Certificate of Language Proficiency) test, according to which language proficiency would be assessed separately in different sectors. This would make the assessment more flexible, as e.g. illiterates could be assessed without the section on writing.

¹⁵⁶ Information provided by Hanne Lehtonen, Head of Information Services of the Finland Society, in a telephone conversation on 24 May 2009.

Another aim for which the Finnish Expatriate Parliament has been lobbying is a reduction in the declaration fee (FEP 2009a). At the end of May 2009 it seemed, nevertheless, that neither the application fee nor the declaration fee would be reduced, since even the current fees (€400 for application and €240 for declaration) are lower than the real processing costs.¹⁵⁷ Reduction of fees would therefore presume allocation of additional financial resources to the Nationality Unit of the Finnish Immigration Service.

5 Conclusions

In the previous sections, an account has been given of historical and present Finnish nationality legislation. As a project is currently under way to amend naturalisation conditions for the first time since the major reform of 2003, it is appropriate to finish by providing some thoughts on recent and possible future development trends.

Even though the contents of the coming government proposal, not to mention the future amendment, were not yet known at the time of writing, in summer 2009 it seemed that important changes to naturalisation conditions are not to be expected—or at least the Ministry of the Interior, which plays a key role in the preparation work, did not think that these kind of changes would be necessary. The period of residence itself would not be shortened and the language skills requirement, which has been criticised for being too demanding, would not be made easier. This shows clearly that the 2003 Nationality Act, which has been in force over six years, has proven to be a successful amendment—at least from the point of view of the executive power. This is further highlighted by the fact that the most important change that may be proposed by the Ministry, the change in the starting point of the period of residence, is actually a reaction to an unexpected decision made by the Supreme Administrative Court.

A significant change in attitudes compared to the 2003 Nationality Act can nevertheless be observed when the Government Programme of 2007 and the goals of the Ministry's project are examined closely. The preparatory work of the 2003 Act, and subsequently the Act itself, lays considerable stress on the abilities of a person wishing to be naturalised, specifically on previously acquired knowledge of Finnish society and the Finnish or Swedish language. In the spirit of the 2003 Act, acquisition of Finnish citizenship is clearly a reward for successful integration, not a means to promote better integration.

In the Government Programme of 2007 and in the subsequent project of the Ministry of the Interior, on the contrary, citizenship issues have been linked to general immigration policy and naturalisation is seen as a means to support integration into society. The reason for this change in attitude is, once again, due to changes in Finnish society: as it is expressly stated in the Government programme, demographic trends in Finland and the related need for labour are factors behind the promotion of work-related immigration. The population in Finland is ageing fast and the labour force will, according to the statistics, start to decline in the near future.¹⁵⁸ This

¹⁵⁷ In 2003, the real costs for processing a citizenship declaration were estimated at €540 by the Directorate of Immigration. See the Parliamentary motion (TPA) 89/2002.

¹⁵⁸ T. Kinnunen, 'True Finns party sparks immigration debate in Finland', Agence France Press, 27 May 2009. The article published on the internet site of Expatica Communications B.V., an international media company providing news and other information on living abroad, www.expatica.com/de/employment/employment_information/True-Finns-party-sparks-immigration-debate-in-Finland-_14116.html?ppager=0.

structural problem creates long-term pressure—longer than the term of office of the current government—for facilitation of naturalisation conditions in order to promote immigration. In Finland, this pressure is likely to be stronger than in many other European countries, since the geographic position of Finland on the outskirts of Europe, harsh climatic conditions and difficult language make the recruitment of foreign labour a challenging task. One imaginable scenario in this regard could be the facilitation of naturalisation requirements for those who have a permanent job in Finland¹⁵⁹—but at the same time it should be assured that Finnish citizenship is not acquired simply because of the possibility of moving freely to another EU country.

The inclusion of citizenship issues in immigration policy has yet another potential consequence which needs to be taken into consideration. As has been noted, the rather tame political discussion around the 2003 Nationality Act, notwithstanding its major changes, can at least partly be explained by the small immigrant population in Finland.¹⁶⁰ This has also been one reason for the fact that immigration questions in general have not attracted major attention in political debates, and there has not been significant far-right, anti-immigrant opposition parties in Finland (Howard 2009: 79–80). This traditional situation has, however, started to change lately. As a result of the October 2008 municipal elections, where some openly immigration-critical candidates were elected, immigration questions became a subject of an intense political debate in Finland. This discussion continued at the beginning of 2009, when a government proposal for the amendment of the Aliens Act¹⁶¹ was being discussed in parliament. At the centre of the debate was the populist True Finns party, the members of which were accused of racism. Whether these accusations are justified or not, it is noteworthy that the support of the party has increased considerably in recent years—from 1.6 per cent in the Parliamentary elections of 2003, to 4.1 per cent in the 2007 Parliamentary elections, 5.4 per cent in the 2008 municipal elections and, notably, 9.8 per cent in the European elections in June 2009 (Ministry of Justice 2009). On the other hand, it must be taken into account that critical views on immigration policy were expressed also by members of other parties during the political debate in 2008–2009.¹⁶² It can be concluded that the connection of citizenship affairs to general immigration policy will probably increase public interest in citizenship issues. The future amendments of nationality legislation are therefore likely to attract more attention and stir fiercer political debate than before, especially if conditions for naturalisation are proposed to be made easier.

¹⁵⁹ An individual exception to the period of residence and the language skills requirement in this regard is already possible according to sect. 18 (1)(1) of the Nationality Act, although the conditions are quite strict (engagement in permanent full-time work in Finland must be unreasonably difficult without Finnish citizenship).

¹⁶⁰ At the end of 2008, the number of foreign citizens was 143,200, approximately 2.7 per cent of the population (Migri 2009b and Statistics Finland 2009b). The total number of people of foreign origin (including those who have been naturalised in recent years) is, of course, bigger.

¹⁶¹ HE 166/2007.

¹⁶² T. Kinnunen, 'True Finns party sparks immigration debate in Finland', Agence France Press, 27 May 2009; L. Phillips, 'Far right make gains in 10 members states', EUobserver [a non-profit organisation providing EU related news], 8 June 2009, <http://euobserver.com/883/28263>. – The chair of True Finns, Timo Soini, who was elected to the European Parliament in June 2009 elections, has consistently asserted that neither he nor his party is racist. In the EU Parliament Mr. Soini will be a member of the eurosceptic Independence/Democracy Group. 'New MEPs Join EU Parliament Blocks', YLE (The Finnish Broadcasting Company) 30 June 2009, http://yle.fi/uutiset/news/2009/06/new_meps_join_eu_parliament_blocs_836243.html.

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