Chapter 7

Acquiring Nationality: Is it a Goal, a Tool, or an Assessment of Integration?

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Nationality law and practice may reflect on the integration policy of the 25 Member States measured in the Migrant Integration Policy Index (MIPEX) by making a typology or a scale system. It would be based on how each state considers naturalisation and other procedures for the acquisition of nationality; is it the final aim of the long process of migrant’s integration? Is this acquired status a necessary legal instrument for promoting integration through social and economic equality and accession to the political community? Or is it used as a benchmarking system to evaluate an individual’s level of integration and abilities? This typology could determine the stability as well as the acquisition of this status. Nevertheless, the key terms of nationality, citizenship and integration of migrants\(^1\) are used by decision-makers and stakeholders without common agreement or a univocally clear terminology. For operative purposes, this chapter will define nationality as a legal tie of individuals to the state of a titular nation that may contribute to becoming active, responsible and integrated citizens of the given community.

\(^1\) Citizenship is applicable on the grounds of political theory, law and sociology to national citizenship (containing reserved prerogatives and responsibilities for nationals such in the public sector), denizenship, civic citizenship enjoying e.g. certain political rights at local level, active citizenship (participating in civil sector, community and political life), European/union citizenship (with own complementary rights to the national citizenship residing in another member state), global, corporate or transnational citizenship (it reflects on global responsibility for ethical, environmental and economic issues of mankind, it steps across the state and company borders). All of meaning of citizenship has influence on community and individual identity but at different scales. See INTI Technical Seminar Paper, *The acquisition of nationality, citizenship and national identity*, (European Commission, 2007).
Nationality law is a part of citizenship policy containing numerous non-normative components, such as information campaigns on procedures, regular counselling on naturalisation, free training and tests, language courses etc. And yet citizenship policy is hardly isolated from integration and migration policy. Therefore analysis shall be based not only on normative or legislative analysis but also complemented with the experiences of law practitioners and NGOs, statistical data, and the literature on nationality. The most comparative existing research projects, NATAC and the MIPEX, cover different geographical scopes and are based on diverse methods. Taking into account these various sources, policy or legal-driven analysis and diverse indicators it has become possible to designate the current trends in nationality law.

A. International Legal Principles

Searching for normative tools for nationality policy evaluation, we have to answer whether the most relevant principles and requirements of the international agreements and customary law are inserted into national legislation or not. Although those have significantly influenced legislation and legal practice in developed countries, neither NATAC nor MIPEX investigates the presence of all relevant instruments in the Member States. For instance, both indicate the ratifying states of European Convention on Nationality (1997) but more important substantial and procedural guarantees are not evaluated or contra legem regulations are not criticised.

What are the most influential internationally accepted (though not always respected) principles relevant to the integration nexus? The effective, genuine link between the national and his/her state is defined in the infamous Nottebohm case at the International Court. A normative tool could identify how many countries have, inter alia:

1. grounds for ex lege acquisition based on territorial elements (birth on the territory of the state or double ius soli if both the parent and the descendent were born in the territory)
2. residence within the territory (on the ground of ius domicilii)
3. or option rights based on these elements

Despite the great variety in these provisions, their aim is always to promote the integration of persons permanently living on a state’s territory. It would be desir-