Chapter 6

Ethnic Citizenship – Can it be Obtained and Tested?

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6.1 Introduction

Although Hungary has considered itself to be a country of transit rather than a target country for migrants, without a (well) established integration policy (Hajduk 2008), the testing system at the level of migrants, or fragments of it, have appeared in the legislation of contemporary Hungary. While the foreign population living here is below 2%¹ of the total and its majority is derived from the ethnic Hungarian communities in adjacent states,² the testing provisions contain an embarrassing proportion of civic and ethnic citizenship components.

What are the legally defined criteria for the integration of migrants and how are these supported and tested in practice? Taking into account the rules in force and available statistics, an inconsistent picture of migration policy and law can be discerned for the following groups of migrants in Hungary: (a) internationally protected persons (applicants and migrants in possession of a recognised status) who have to cope with Hungarian legislation in combination with a minimal support system and a penalty for reduced integration efforts; (b) residence and settlement permit-holders, including EEA nationals, family members and third-country nationals through direct and indirect

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¹ In the period 1993–2008, this rate has grown from 1.19 to 1.74%. In absolute terms this means 123–175,000 migrants annually. Demographic Yearbook 2007, Budapest: Central Statistical Office 2008, p. 88.

² The ethnic origins of migrants are not statistically gathered, but, in 2007, 65% of settled migrants and 86% of naturalised persons held the citizenship of Romania, Ukraine, Serbia, Slovakia or Croatia. Demographic Yearbook 2007, p. 93.
integrative provisions in new laws; and (c) applicants for naturalisation through the constitutional examination and procedural requirements. This article is an initial attempt to describe immigration legislation and practice as reflected in the measurability of migrants’ integration in a kin-state that is basically applied to a kin-minority.

6.2 Acquisition of Citizenship

The Constitution contains a few guarantee provisions relating to Hungarian citizenship, while the other rules pertaining to acquisition and loss of citizenship are contained in a law adopted by a two-thirds voting majority. This represents the obligation to reach consensus on the notion and principle of this legal instrument between the ruling and opposing parties. On the one hand, it ensures stability and continuity of legislation, but, on the other hand, it makes regulations difficult to amend, even if this were urgent. Strangely enough, there is no such mandatory restriction relating to entering into international commitments concerning nationality law.

The Hungarian Nationality Act in force is the fourth nationality law since 1879. It defines seven legal titles of acquisition of Hungarian nationality with different requirements. Of those, the test of the integration level of applicants is relevant only in the naturalisation process, while the other modes of acquisition only presuppose the existence of (advanced) integration of the person concerned. From this point of view, we can identify two groups of acquisition modes, depending on the requested imminent integration or formally obtained integration of individuals.

(a) In the first group, we include the acquisition of citizenship by birth (the child of a Hungarian citizen based on ius sanguinis, regardless of the place of birth); acquisition with presumption (the child of a stateless immigrant in possession of a permanent residence permit or an abandoned child of unknown parents shall be considered a Hungarian national unless or

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3 Act XX of 1949 on the Constitution of the Hungarian Republic, as it was thoroughly reformed by Act XXXI of 1989, establishing the rule of law, including an Article on Hungarian citizenship. Art. 69(1) of the Constitution forbids any arbitrary deprivation of Hungarian citizenship.

4 Art. 69(4) of the Constitution requires this voting majority to pass the Hungarian nationality law, including its amendments.