Introduction: Current Issues in Nationality Law in Europe

BERNARD RYAN*

Comparative nationality law is a field of many stories. Each state has its own history, its own circumstances, its own political developments, its own conception of membership and what that entails. Nevertheless, within nationality law, certain themes – or even genres – tend to recur. The four papers in this special issue explore a number of important recent controversies in nationality law in Europe. Taken together, they show the playing-out of general themes in particular contexts which is characteristic of the field as a whole.

The interaction of nationality law and immigration is one, increasingly common, theme. It is said that states whose nationality law is closed to migrants feel pressure to include permanent non-national residents, while states where nationality law is more open to migrants tend to make it more restrictive. The papers here on recent developments in Germany (Hoffmann) and Ireland (Ryan) illustrate these points. The former has been thought of as a paradigm case of a state with an exclusive nationality law based on ius sangunis, while the latter can be thought of as a paradigm case of inheritance of the British legacy of ius soli. Despite that, these two states are now set to have quite similar rules as regards the acquisition of citizenship by birth. In each case, parents who are citizens, or have a right of permanent residence, or have been resident for a defined period – and only they – will be able to confer citizenship on their children. Certainly, there are differences in the detail: German law will remain the more restrictive, requiring eight years’ parental residence, and discouraging dual nationality, while Irish law will continue to be more open, applying to births in Northern Ireland, favouring births to British citizens, and requiring only three years’ residence. Nevertheless, analytically, it is the convergence of apparently polar cases which is revealing.

The dilemma posed for nationality law by ethnic minorities, and their potential statelessness, is the other theme explored in the papers here. In the case of Greece, Sitaropoulos shows that the former Article 19 of the Greek Nationality Code, only recently repealed, permitted the denationalisation of tens of thousands of that state’s Turkish minority. Gelazis’s paper meanwhile considers the treatment of the ethnic Russian minority in the nationality law of Estonia and Latvia. In each case, it is the durability of the exclusive practices which is striking. States whose independence is obtained with difficulty and/or who are in conflict with their neighbours, may persist in denying full citizenship to those presumed to identify with the other state, and resist all internal or external criticism which suggests that they do otherwise.

* Senior Lecturer, Law School, University of Kent, England.