

**United Nations Conference on the Elimination or Reduction of Future
Statelessness**

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**Addendum to Comments by Governments on the revised Draft Convention on the
Elimination of Future Statelessness and the revised Draft Convention on the
Reduction of Future Statelessness, prepared by the International Law Commission
at its sixth session**

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UNITED NATIONS CONFERENCE ON THE ELIMINATION
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Addendum to Comments by Governments on the revised Draft Convention
on the Elimination of Future Statelessness and the revised
Draft Convention on the Reduction of Future Statelessness
prepared by the International Law Commission at its sixth session

11. IRELAND

Memorandum transmitted by a Note from the Minister for External Affairs to the Secretary-General of the United Nations, dated 28 March 1959

INTRODUCTION

1. The Government of Ireland consider that, before they comment on the Draft Convention on the Elimination of Future Statelessness and the Draft Convention on the Reduction of Future Statelessness, it may be useful if they furnish a summary of Irish nationality and citizenship law insofar as it may be relevant to the problem of statelessness.

SUMMARY OF IRISH NATIONALITY AND CITIZENSHIP LAW

2. Irish citizenship may be acquired (a) by birth, (b) by descent, (c) by adoption, (d) on marriage and (e) by naturalisation. The following are the main relevant provisions of Irish law:

- (a) Every person born in Ireland or on an Irish ship or aircraft is an Irish citizen. Every deserted infant first found in the State is, unless the contrary is proved, deemed to have been born in Ireland and consequently to be an Irish citizen.
- (b) Every person who is born outside Ireland and either of whose parents is at the date of the person's birth an Irish citizen, is an Irish citizen; subject to the condition that where neither parent is an Irish citizen born in Ireland, the person's birth is registered in the prescribed manner. Registration is an indefensible right and may be effected at any time.
- (c) Where a child is adopted under the Irish Adoption Act, 1952, the child, if not already an Irish citizen, becomes one if the adopter or, in the case of an adoption by a married couple, either spouse is an Irish citizen.
- (d) An alien woman who marries an Irish citizen does not thereby acquire Irish citizenship. If, however, her husband is an Irish citizen otherwise than by naturalisation, she may, at any time and as of right, become an Irish citizen by lodging a declaration of acceptance of Irish citizenship as her post-nuptial citizenship. It may here be mentioned that Ireland is a party to the Convention on the Nationality of Married Women done at New York on the 20th February, 1957.
- (e) Irish citizenship may be conferred on an alien by means of a certificate of naturalisation granted by the Minister for Justice. It is unnecessary to specify here the conditions for the issue of a certificate. It is sufficient to say that the decision to grant an application for a certificate is at the absolute discretion of the Minister, subject to the applicant's compliance with the conditions.

3. There are only two ways in which an Irish citizen may lose his or her citizenship viz:

- (a) voluntary renunciation; and
- (b) in the case of a naturalised citizen only, revocation of that citizen's certificate of naturalisation.

The death of, or the loss of Irish citizenship by, an Irish citizen does not affect the citizenship of the spouse or children. A person who marries an alien does not thereby cease to be an Irish citizen, whether or not that person acquires the nationality of the alien. There is no provision of Irish law under which a person who is an Irish citizen (otherwise than by naturalisation) can be deprived of Irish citizenship because he has or acquires another nationality.

4. Every Irish citizen, who is ordinarily resident outside the State and who is either of full age or a married woman under that age, may renounce Irish citizenship in the manner prescribed by law, but only on condition that he or she has or acquires the nationality of another country. In time of war renunciation is subject to the consent of the Minister for Justice.

5. No act or omission on the part of a naturalised Irish citizen will of itself operate to deprive him or her of Irish citizenship, except voluntary renunciation which a naturalised Irish citizen is entitled to make on the same conditions as any other Irish citizen. However, the Minister for Justice may revoke a certificate of naturalisation if he is satisfied -

- (a) that the issue of the certificate was procured by fraud, misrepresentation whether innocent or fraudulent, or concealment of material facts or circumstances, or
- (b) that the person to whom it was granted has, by any overt act, shown himself or herself to have failed in his or her duty of fidelity to the nation and loyalty to the State, or
- (c) that (except in the case of a certificate of naturalisation which is issued to a person of Irish descent or associations) the person to whom it is granted has been ordinarily resident outside Ireland (otherwise than in the public service) for a continuous period of seven years and without reasonable excuse has not during that period registered annually in the prescribed manner his or her name and a declaration of his or her intention to retain Irish citizenship with an Irish diplomatic mission or consular office or with the Minister, or
- (d) that the person to whom it is granted is also, under the law of a country at war with the State, a citizen of that country, or
- (e) that the person to whom it is granted has by any voluntary act other than marriage acquired another citizenship.

Before revoking a certificate, the Minister is required to give notice to the person concerned, stating the grounds for the intended revocation and the right of the person to apply to the Minister for an inquiry as to the reasons for the revocation. On such application, the Minister must appoint a Committee of Inquiry, the chairman of which is required to have judicial experience, to report their findings to the Minister. It remains, however, for the Minister to decide whether or not to revoke the certificate of naturalisation.

OBSERVATIONS ON DRAFT CONVENTION ON

THE ELIMINATION OF FUTURE STATELESSNESS

6. Articles 1, 2, 3, 5, 6, 7(1) and (2), 10, 12, 14, 15, 16, 17, 18

The Government of Ireland have no objections to these provisions.

7. Article 4. As explained at (b) of paragraph 2 above, in the case of a person born outside Ireland either of whose parents is at the date of that person's birth an Irish citizen but neither of whose parents is an Irish citizen born in Ireland, that person is an Irish citizen only on condition that his or her birth is registered in the prescribed manner. The Government of Ireland have no objection to this Article if the word "acquire" can be interpreted as meaning "acquire or be enabled as of right to acquire". It may be mentioned in connection with the second sentence of this Article that Irish law does not recognise that the nationality of the father prevails over that of the mother, since Irish citizenship may be derived from the father or the mother.

8. Articles 7(3), 8. The Government of Ireland have no objection to these provisions save insofar as they relate to naturalised citizens. The circumstances in which the Minister for Justice may revoke a certificate of naturalisation of a naturalised Irish citizen, have been explained in paragraph 5 above. The Government would, however, be prepared in principle to agree that a certificate of naturalisation would not be revoked merely on grounds of failure to register, where the revocation would result in statelessness.

9. Article 9. The Government of Ireland have no objection to this Article save insofar as it would prohibit absolutely the revocation on political grounds of a certificate of naturalisation of a naturalised Irish citizen. In Irish law the Minister for Justice has the power to revoke a certificate on two grounds which might be regarded as political, viz.,

- (a) if the naturalised Irish citizen concerned has by any overt act shown himself or herself to have failed in the duty of fidelity to the nation and loyalty to the State;
- (b) if the naturalised Irish citizen concerned is also a citizen of a country at war with Ireland.

It will be noted that in the case of (b) statelessness cannot result from the revocation of the certificate of naturalisation.

10. Article 11. The Government of Ireland reserve their position for the moment in regard to the establishment of an agency and a tribunal. They wish to emphasise in this connection that the Irish Courts alone are competent to determine whether or not a person is an Irish citizen under Irish law.

11. Article 13. Inasmuch as the Government of Ireland could not accept all the provisions of the Draft Convention, this Article is unacceptable.

OBSERVATIONS ON DRAFT CONVENTION ON THE
REDUCTION OF FUTURE STATELESSNESS

12. Articles 1, 2, 3, 5, 6, 7, 10, 12, 14, 15, 16, 17, 18. The Government of Ireland have no objection to these provisions.

13. Article 4. See the observations in paragraph 7 above on the corresponding Article in the Draft Convention on the Elimination of Future Statelessness.

14. Article 8 (1). The Government of Ireland have no objection to these provisions save insofar as they relate to naturalised citizens. The circumstances in which the Minister for Justice may revoke a certificate of naturalisation of a naturalised Irish citizen have been explained in paragraph 5 above. The Government would, however, be prepared in principle to agree that a certificate of naturalisation would not be revoked merely on grounds of failure to register, where the revocation would result in statelessness. It may be mentioned here that residence by a naturalised Irish citizen in his or her country of origin is not in itself a ground on which that citizen's certificate of naturalisation may be revoked.

15. Article 8(2). The decision to revoke a certificate of naturalisation lies with the Minister for Justice. As explained in paragraph 5 above, the Minister must, before revoking a certificate, inform the naturalised Irish citizen concerned of his or her right to have the reasons for the intended revocation inquired into by a Committee of Inquiry, the chairman of which is required to have judicial experience. The Committee of Inquiry is not a judicial authority.

16. Article 9. See the observations in paragraph 9 above on the corresponding Article in the Draft Convention on the elimination of Future Statelessness.

17. Article 11. See the observations in paragraph 10 above on the corresponding Article in the Draft Convention on the Elimination of Future Statelessness.

18. Article 13. See the observations in paragraph 11 above on the corresponding Article in the Draft Convention on the Elimination of Future Statelessness.

CONCLUSION

19. The preceding observations on the two Draft Conventions are of a preliminary nature and should not be taken as exhaustive. The fact that the Government of Ireland state that they have no objection to any particular provision does not necessarily mean that they regard that provision as fully suitable in form and content.

20. The Government of Ireland view with sympathy efforts on the international plane to reduce the incidence of statelessness. As will be apparent from this Memorandum, great care has been taken in Ireland to ensure that statelessness will not occur in consequence solely of circumstance or of an act or omission of an individual Irish citizen. The Government of Ireland regret, however, that they do not consider acceptable those provisions of either Draft Convention which would prohibit a Contracting State from terminating, by formal act of a Minister of State in accordance with law, the citizenship of a naturalised citizen who

- (a) obtained naturalisation by fraud, misrepresentation or concealment of material facts or circumstances, or
- (b) showed himself or herself by overt act to be disloyal, or
- (c) was also a citizen of a country at war with the country of naturalisation.

Statelessness could not be a consequence of termination of citizenship in case (c). In any case where the revocation of an Irish certificate of naturalisation would result in statelessness, the Minister for Justice would take this factor into consideration in deciding whether or not to revoke the certificate.

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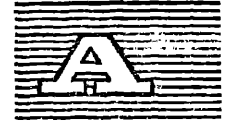
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CORRIGENDUM
to the

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on the Elimination of Future Statelessness and the revised
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In paragraph 2(b), in the last sentence replace the word 'indefensible'
by the word 'indefeasible'.